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GOVERNMENT PROVISION OF INFORMATION SERVICES IN COMPETITION WITH THE PRIVATE SECTOR

ORIGINAL

HEARING

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON GOVERNMENT OPERATIONS HOUSE OF REPRESENTATIVES

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GOVERNMENT PROVISION OF INFORMATION SERVICES IN COMPETITION WITH THE PRIVATE SECTOR

THURSDAY, FEBRUARY 25, 1982

HOUSE OF REPRESENTATIVES,
GOVERNMENT INFORMATION
AND INDIVIDUAL RIGHTS SUBCOMMITTEE
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room 2154, Rayburn House Office Building, Hon. Glenn English (chairman of the subcommittee) presiding.

Present: Representatives Glenn English and Thomas N. Kindness.

Also present: Donna C. Archer, professional staff member; Rebecca A. Miller, secretary; and John J. Parisi, minority professional staff, Committee on Government Operations.

Mr. ENGLISH. The hearing will come to order.

Today marks our third day of hearings on the question of whether Federal agencies should compete with private enterprise by offering telecommunications and information services.

In a growing and vital part of our economy—the so-called information services of telecommunications and data processing—some Government agencies seem to be usurping the role of private enterprise. Two questions are before us: What role should Government have in the delivery of communications and information services? Can we rely on existing regulatory and governmental structure to insure that agencies do not move into the provision of computer and communications services for private use?

Federal data processing and communications resources must not be misdirected. With fewer resources available, Government should be using what it has to conduct its internal operations, not providing subsidized services to private businesses.

There are, of course, exceptions to this general rule. Where only Government is capable of providing a service, where it is uneconomical or impractical for private enterprise, and where the service is needed by the Nation, then a Federal agency should supply it. However, those circumstances are rare. So far in its inquiry, the subcommittee has concentrated on enhanced communications services, such as electronic funds transfer and electronic mail. Today, we will begin to look at the offering of other information services.

I think it is important to emphasize that this morning will not be our last hearing on these issues. In the weeks and months ahead, the subcommittee will be examining closely the question of what the Congress needs to do in response to the problems of Government competition.

Mr. Kindness, do you have comments you would like to make?

Mr. KINDNESS. Thank you, Mr. Chairman. I join in the intellectual curiosity, as well as the concern, that lies beneath the project that is involved here in oversight in this rather important area and I commend the chairman for continuing pursuit of what needs to be developed on the record in this area.

I look forward to the testimony of our witnesses this morning and wonder if I might express in advance my apologies that I am going to have to be out of the room for a little while during the hearing this morning. I assure the witnesses I have gone over their written testimony, but hope I will be back very shortly when I do have to excuse myself.

Mr. ENGLISH. Thank you, Mr. Kindness. Our first witness this morning is Bernard Wunder, who is the Assistant Secretary of Commerce for Communications and Information.

Mr. Wunder, welcome, and thank you for being with us this morning.

STATEMENT OF BERNARD J. WUNDER, JR., ASSISTANT SECRETARY FOR COMMUNICATIONS AND INFORMATION, U.S. DEPARTMENT OF COMMERCE

Mr. WUNDER. Thank you, Mr. Chairman. I have a prepared statement which I would ask be inserted in the record. I would like to just give some short summary points and then we can go on to the questions.

Mr. ENGLISH. Without objection, we will insert your prepared remarks in the record.

Mr. WUNDER. Mr. Chairman, the Reagan administration is strongly committed to a government that is less costly and less pervasive, and this includes the area of information and telecommunication services that compete undesirably with the private sector.

What we are doing here in the administration is really a two-part undertaking. First, we are trying to limit further expansion of these types of activities. An example of that would be our continuing effort—we are in litigation still today—to stop the Postal Service from expanding into electronic mail.

In that case, we are significantly hampered by the fact that the U.S. Postal Service has a very independent nature as a result of the Postal Reorganization Act and litigation in this area was really our only viable option.

The other part of our new activities that are currently ongoing would be to look at those information services-type activities that have been and continue to be offered by the Government. The case in point there would be one in my own department, which is NTIS. We have a task force organized and we are looking at those activities in order to ascertain whether or not they can be performed by the private sector. We are looking at such issues as the cost and

whether or not the fundamental government needs can be supplied in an alternative fashion.

What I think we really need is sort of a prototype. I think if we could do this once, and work out the kinks, then that would pave the way for further movement and a further look at other areas where it is believed that the Government is competing with the private sector.

As you indicated in your opening statement, information services are becoming a very integral part of our economy, ever increasingly important both from an export standpoint and from a domestic standpoint. And our efforts in this area—Government competition with the private sector—are really similar, I believe, to our deregulatory efforts because the Government provision of these types of service tends to inhibit innovation as well as forestall competitive entry, which also brings about innovation.

The Reagan administration, in summary, Mr. Chairman, is committed to cutting back on Government's role where necessary functions can be performed effectively and efficiently by the private sector.

I would add, Mr. Chairman, that one of the real problems that we run into, and I say this in all candor, is that when we start looking into these activities, one of the biggest lobbies against doing anything like this, is the employees who work for the Government agencies. When we just started looking at NTIS, for example, we got numerous inquiries from the Hill, and I think that if we are going to proceed in this fashion, that we are going to need help from people like you and a bipartisan effort on the Hill to support these types of activities because they are difficult to do in the absence of that.

With that, I will be happy to answer any questions you or Mr. Kindness might have.

[Mr. Wunder's prepared statement follows:]

Statement of

Bernard J. Wunder, Jr.
Assistant Secretary for Communications and Information
U.S. Department of Commerce

Thank you for your invitation to discuss briefly some of the issues that the Department of Commerce and other Executive branch agencies are currently considering with respect to the involvement of Federal agencies in providing computer-data processing and communications -- or, generically -- "information" services.

Recently, questions have arisen concerning the diversity of information services offered by Federal agencies to the public, as you know. This, in part, is a result of the increasing importance of these services to our domestic and export economy. Most of these concerns center on the view that Government information services undesirably compete with profit-making private firms in this new and evolving high-technology area. I share many of these concerns. I am also concerned with the interests of information users, served through Government contractors, non-profit firms, and professional societies.

In this brief statement, I will identify instances in which the appropriate role of the Federal Government as a provider of information services is being reexamined. This reexamination is being carried out with due regard to Government, national, and private needs.

Many Government entities today provide a broad range of information services that are relevant here. The United States Postal Service, for example, since January 4, 1982, has offered a

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computer and communications-based electronic message service called ECOM, which some private firms contend competes directly and unfairly with their services.

The Federal Reserve System for some time now also has been expanding the capabilities of its existing electronic payments network, both in terms of volume and the kinds of "electronic banking" services possibly offered.

The Department of Commerce's National Technical Information Service (NTIS) for many years has functioned essentially as a repository and broker of Government-funded technical information, selling Government technical reports and other publications. Recently, NTIS has undertaken to provide the public with bibliographies, not only of its own computerized data base, but of other Federal, commercial, and foreign data bases as well.

Basic Government policy in this general field, of course, is fairly clear and longstanding. The basic policy, as articulated in OMB Circular A-76, holds that the "Government's business is not to be in business." The three equally valid precepts on which this policy is based are: (1) relying first on the private sector to provide goods and services needed by the Government; (2) retaining certain inherently Governmental functions; and (3) aiming for economy by comparing in-house versus contract costs. This firm and traditional Government policy -- of relying

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to the maximum extent possible on the private sector to meet Government needs -- is also reflected in a number of directives and circulars issued by the other agencies. It is a policy, moreover, that is not unique to the information services field, but rather one that applies across the board.

The specific policies of the Reagan Administration in this area are also quite clear. The Administration is strongly committed to reducing the overall size and pervasiveness of the Federal establishment. An important aspect of achieving this objective is cutting back on the Government role whenever necessary functions can be provided as effectively and efficiently by the private and where there is no compelling need to maintain them as a Federal function. The Reagan Administration is also very strongly committed to the fundamental policy of accomplishing further deregulation of private enterprise, and these two companion goals are closely related.

There are two fundamental reasons for our basic policy of fostering and encouraging the further deregulation of private industries. First, regulation tends needlessly to inhibit innovation. Second, regulation tends to interfere with efficient functioning of the marketplace and pricing indicators, in addition to being very costly. Regulation, for instance, tends to hold some prices artificially low, and, consequently, both encourages overconsumption of the relevant product while, at the same time, often forestalls new and competitive entry.

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Regulation often also tends to hold certain prices artificially high, with the result that excessive profits are generated -- costs that are borne ultimately by consumers.

The presence of a significant Government involvement in any given line of commerce has economic implications that are similar to the presence of pervasive economic regulation. The chief difference is that whereas regulation may skew pricing indicators, the presence of a significant Government enterprise almost always does distort them. Statutory admonitions directing Government entities to price on a "full and fair" or "full cost recovery" basis, or similar terms, often are of little practical consequence. This is because, as a "competitor" in the marketplace, the Federal agency enjoys inherent advantages: it typically pays no taxes, for example, and it does not usually confront comparable problems in raising capital. Allocating joint and common costs over a range of different services -- as a Government enterprise must seek to do -- is also an inherently difficult task, necessarily entailing arbitrary judgments Congress (and others) often find very hard to police.

In new, evolving, and high-technology fields -- such as the information services fields -- the economic risks of unnecessary Government competition with the private sector are compounded, because this competition can also have a severe impact on the pace of both cost-reducing and demand-inducing innovation. Government operations tend to be insulated from ordinary marketplace controls

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and are almost completely immune from many of the risks of marketplace failure that usually cause private firms to continually seek out ways of reducing costs, and thus perform the same functions more efficiently. Most would also agree that the private sector is a far more reliable source of new product-related innovation than is true of most Government agencies. These adverse consequences of unnecessary Government competition are especially significant, given the increasing importance of information services to our economy. As these services become a basic cost component of a broad range of other products, it is important to ensure that they develop efficiently, lest there be unnecessary adverse economic ripple effects throughout our economy.

If there is general agreement with the principle that the Government should not be competing with the private sector, especially in these high-technology, evolving areas, there is a diversity of opinion when it comes to specifics. The examples of Government information service competitors that I listed initially in my statement are each the focus of significant controversy and debate.

In most instances, the Government information services involved were originally developed to meet legitimate public purposes and needs. When most entities began to offer services, there was a legitimate public service need, and a need that the private sector then either could not, or would not, adequately meet.

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The common difficulty in this area, however, is that Government enterprises once in place tend to continue to develop, and to expand their offerings to the public. In addition, constituencies typically develop which rely upon the services provided them by the Government. The prices that they are charged often do not reflect all of the underlying costs. These user groups thus typically are not only unwilling to forego subsidized services that the Government provides them; there are also legitimate transitional equities issues presented. A key element in shifting information services to the private sector is assuring national Government priority needs will continue to be met. It is hence simply not feasible -- or desirable -- for the Government, so to speak, to "pull the plug."

The process of disengaging the Government from this area is obviously not easy. It is a process, however, that has already begun. This Administration has focussed on the ability and the willingness of the private sector now to assume these basically commercial functions. With substantial bipartisan support from Congress, we have sought systematically to bring the prices charged by Government enterprises for their offerings more in line with the underlying costs. The Administration, for example, has recommended reductions in traditional U.S. Postal Service subsidies based on the correct view that those who make use of USPS services should bear the costs. The Administration has also recommended that the prices charged for information provided by the Commerce Department's Landsat system, for example, be increased. Under the

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banking legislation passed by Congress in 1980, moreover, the Federal Reserve System for the first time was directed to develop a cost-based pricing system for many of the services that it offers. The President's fiscal 1983 budget recommendations with respect to the National Technical Information Service, in addition, call for all NTIS programs to be made as self-sustaining as possible by 1985, through increased user charges and user revenues.

In the information services field, as in others, a necessary first step toward ensuring competitive opportunities is to stop subsidizing any one competitor, including situations where that competitor is a Federal agency. As I indicated previously, though, simply adjusting the fees that Government enterprises charge will not alone redress the very real competitive imbalance private sector entrepreneurs confront. It is, however, a positive and affirmative first step, and the Administration has already taken it.

A second step that should be -- and, indeed, has been -- taken is to very closely review any proposed expansions on the part of Government services that are subject to competition with private enterprise, from a cost-benefit standpoint. The Commerce Department has done this with respect to NTIS, for example. Another related instance where the Department has acted in this regard is in the case of the Postal Service's ECOM offering. There, both the Commerce and Justice Departments have jointly challenged the demand and cost premises advanced in support of this

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new undertaking, in addition to its effect on private sector competition. As you know, this is a matter that is now being pursued actively in the courts.

A third important step is to commence a careful and objective review of ongoing Government information services, particularly with an eye towards what alternative services are available from the private sector now. Again, as I mentioned, certain of the services that Government agencies currently provide the public were begun many years ago, when marketplace -- and budgetary -- conditions were quite different from today's. There is a diversity of information services now being provided, and the user groups and markets involved differ. There is thus no easy way to avoid undertaking a case-by-case evaluation of each service. In the case of information services provided by Commerce Department agencies, this is something that we are already doing. A review of the activities of NTIS is underway; additionally, I believe that Congressman Parris has asked the Office of Technology Assessment to study the programs NTIS offers the public. Other departments, as well as OMB, are studying a number of other similar Government undertakings.

To summarize my remarks on this important issue, therefore:

o First, the longstanding and basic policy of the Government remains to rely to the maximum extent possible on the private sector in meeting both public and Government needs, not only in the

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important information services sector, but in other lines of commerce as well.

o Second, the Department of Commerce and the Reagan Administration are fully cognizant of, and indeed sympathetic toward, complaints that have arisen concerning Government information services that are actually or potentially competitive with private sector offerings. This is an important area, which we are actively reviewing, particularly given the need maximize free market competition and to minimize distortion of pricing indicators and to stimulate innovation.

o Third, positive and affirmative steps have already been undertaken with a view toward resolving as many of these problems as possible, consistent, of course, with minimizing any transitional equities problems. Steps are already being taken, for example, to ensure that the charges made by Government enterprises in this field (as well as others) truly reflect underlying costs to the maximum extent possible. Steps have also been taken to subject proposed expansions of relevant services to careful cost-benefit review. And, finally, case-by-case reviews of each system and service provided by the Commerce Department have been commenced, in order objectively to determine whether the services can be provided by private sector vendors.

Here, as in other areas, it is simply not possible for us to correct all of the steps taken during previous Administrations

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overnight. Nor, as a matter of fairness, would we propose the abrupt termination of Government information services, where that could cause severe user dislocation. We have, however, set in motion a systematic, objective service-by-service review, and believe that it will be completed soon.

This Subcommittee and its expert Staff are to be commended for the legitimate public attention that they have brought to bear on these important issues. NTIA and the Department of Commerce, of course, continue to stand ready to provide you with whatever assistance you may require.

Mr. ENGLISH. Thank you very much, Mr. Wunder.

I suppose one of the questions that arises right off the bat is: Are the labels that are being supplied, such as electronic fund transfer and electronic mail, are those even the right labels for discussing this kind of an issue?

Mr. WUNDER. No; I would probably think not. What we are looking at in electronic mail, say, is more of a telecommunications service. It looks a lot like the services offered by value-added carriers and even though they may call them electronic mail as a catching handle, they are essentially telecommunications type services and I think——

Mr. ENGLISH. Well, should a Government agency be able to make a unilateral decision with regard to moving into this kind of an area?

Mr. WUNDER. No, sir, I do not believe so. I do not think that a unilateral decision ought to be made. The harder problem, I think, would be the independent regulatory commissions in terms of their independent nature and how do you get a handle on those types of activities. You run into, in many cases, the situation that we ran into with the Postal Service. It seems to me that to the extent that you must get a handle on those activities, there would have to be something done by the Congress.

Mr. ENGLISH. Well, what kind of criteria do you think the Congress should set up to form the guidelines in this area?

Mr. WUNDER. The criteria that Congress could set up are very much like what I heard you say in your opening statement. The only thing that I would expand upon is that there are certain inherently governmental functions that should be continued to be done by the Government.

But as a general proposition, I would say that those activities and those services that can be provided by the private sector ought to be provided by the private sector.

Mr. ENGLISH. I think that's a very good point, Mr. Wunder. Would you go so far as to favor legislation prohibiting, say, the

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Postal Service from offering any form of telecommunications services, whether it is as a resale carrier or through its own services?

Mr. WUNDER. I would personally favor that, Mr. Chairman. In our considerations within the administration, in terms of what were the options available to us in dealing with the postal situation, clearly legislation was one of the options that we considered. Quite frankly, we made a political judgment that that would be extremely difficult to get through the Congress and it seemed to us that our only viable option in dealing with the situation was to litigate.

Mr. ENGLISH. What about the Federal Reserve?

Mr. WUNDER. The Federal Reserve is something that we are only, quite frankly, beginning to look at in any significant way and we have not formed a policy position on it.

The reason why I am hesitant to answer that, even personally, at this time, is that we need to find out more, it seems to me. We need to know whether or not any of the activities that the Fed is engaged in are an integral part of their responsibilities for, say, managing the money supply. I mean, is it something they are involved in that really should not be done by the private sector? I think that those are the types of things that we have to know for sure before we can go forward with that, so I am a little hesitant about that. I am not with the Postal Service because, for instance, I do not see electronic mail as being integral to the delivery of hard copy mail, which is what I see is the province of the Postal Service.

Mr. ENGLISH. Under what circumstances should the FCC have the authority to regulate electronic fund transfers offered by the Federal Reserve under the Federal Reserve communications system for the 1980's?

Mr. WUNDER. Mr. Chairman, it would be my judgment, my legal judgment, that the FCC probably has jurisdiction over those types of activities today. I think the question is whether they will assert the jurisdiction.

Mr. ENGLISH. In your opinion, should they?

Mr. WUNDER. It would seem to me that the questions are not much different.

Take, for instance, the Postal Service. Let us assume for the sake of discussion that they go into this business. How are they really different from the service offered by Graphnet? Should the Postal Service, while in competition with the private sector, while in competition with G.T. & E., and with SBS, and with Graphnet, be essentially self-regulatory?

We do not let the carriers do that. So, it would seem to me that, given that type of standard, that the FCC probably should assert jurisdiction.

Mr. ENGLISH. Mr. Kindness?

Mr. KINDNESS. Thank you, Mr. Chairman, and Mr. Wunder, I appreciate your clarity of the position that you have expressed. The two major categories of market services that we are talking about here in communications seems to me to involve on the one hand, governmental functioning, and on the other hand, that which is basically private sector functioning.

The area of governmental functioning is what I would like to concentrate on for just a moment. And in that area, as in other

things that Government buys, services, or products, or what have you, there can be security considerations, control of speculation or guarding against speculation based on governmental actions, considerations of that sort which, it seems to me, may demand governmental functioning in this area of telecommunication.

Now, I would like to, having eliminated that for the sake of discussion for the moment, I would like to zero in a little bit on this area of governmental functioning that doesn't involve a security consideration or something closely in line to that, protection of the public interest, let us call it.

Mr. WUNDER. Sure.

Mr. KINDNESS. But those areas of telecommunication not involving the protection of the public interest could be provided directly by governmental functioning or could be purchased in the private sector.

If I understood the thrust of your testimony correctly, you are indicating that the administration would favor purchasing those services in the private sector where there is not a security or public protection interest to be effected, is that correct?

Mr. WUNDER. Yes, sir; that is correct. Interestingly enough, Mr. Kindness, what we are dealing with here now is, I think, a question of emphasis, because the policy of doing that is a longstanding Government policy. You have the OMB Circular A–76, which is not the byproduct of the Reagan administration. I think what I am trying to do is to give that a higher degree of emphasis, because it seems to me in the past a lot of things have slipped through the crack.

Mr. KINDNESS. We have a lot of procurement regulations on the books and they are wonderful in their complications, I suppose. Has the Commerce Department, in your function, taken a look yet at whether there is an inadequacy in procurement regulations to deal with the telecommunications area or whether there might be the need for either legislation or some substantial regulatory activity in order to establish more clearly how governmental agencies and departments deal with the purchasing of telecommunications services?

Mr. WUNDER. The answer to the question is, one, yes, we have looked at it. As a matter of fact, Mr. Kindness, I was at a meeting yesterday on this very point and in terms of legislation with respect to the executive branch agencies, I would think that we probably do not need legislation. It is a question of looking at it internally. The only thing I would add is that we have a predisposition in favor of the private sector in this administration. If there comes along an administration without that predisposition, I think, in order to guard against that type of situation, then legislation would seem to me to be the only vehicle.

In terms of our administration, I do not think that we really need that. I guess the second part of the question would concern legislation with respect to the procurement by agencies of the Government which the executive branch really cannot exercise positive control over, the Postal Service being the classic example. We looked at our authorities with respect to the Postal Service then we were looking at the ECOM, and we just did not find many there.

I think the same can be true, to a lesser extent with respect to the independent regulatory agencies.

Mr. KINDNESS. Now, of course, we have with the U.S. Postal Service a question of the selling of the services as distinguished from the purchasing or procurement of the services, and——

Mr. WUNDER. The same would be true, though.

Mr. KINDNESS. My predilection is to feel that there is the need for legislation, permanent legislation, to deal with that aspect of selling services.

But I think that the point that you made could be expanded on just a little bit in that the type of services that we are talking about here would require some regularity, continuity, and, of course, you cannot go in and out of the marketplace that readily——

Mr. WUNDER. Yes.

Mr. KINDNESS [continuing]. With the change of administration. So that we are talking about the procurement of services on a relatively long-term basis, although we do not function that way ordinarily in governmental circles.

So, I wonder if in the light of that comment, you have anything further you would like to put on the record in terms of need for legislation, or regulatory change, or procurement regulation revisions to deal with this somewhat specialized area?

Mr. WUNDER. I think now that I think about it more, my tendency would be to agree with you. If there were legislation of that sort on the books, it probably would give the type of continuity and stability that you refer to. What I would like to do, with your permission now, is let me think about that, and I will supply something for the record giving a further amplification of any thoughts that I might have on that, with your permission.

Mr. KINDNESS. I think we would be very appreciative of your additional thoughts on that. Mr. Chairman?

Mr. ENGLISH. Thank you, Mr. Kindness. Mr. Wunder, do you believe that the current ECOM proposal would pave the way for the Postal Service to provide end-to-end electronic mail service?

Mr. WUNDER. They say "No." As a matter of fact, in our discussions with them over this issue, what they said was that they would support legislation to keep them out of the so-called generation three.

Quite frankly, Mr. Chairman, what has always bothered me about this is that the equipment that is being used for this service takes rather insubstantial modification in order to go to the generation three.

In my experience, once you get in, you usually do not stop, and especially if what is required to go forward is not a significant step either in terms of effort or in terms of cost.

I take them at their word when they say that they have no present intention of doing that. I think with respect to that, however, and let us say 4 years from now, the people that have told me and this committee that they have no present intention may no longer be there.

Mr. ENGLISH. That is very true, Mr. Wunder, very good point. I know that when the Assistant Postmaster General Finch testified before this subcommittee, he had no desire to get involved in this sort of activity. But we noticed—I believe it was the very next day, strangely enough amendments were offered to the Senate legisla-

tion, to S. 898, which provided the opportunity to do just that. It has come to my attention and it is my understanding, at least, that a number of postal officials were responsible for the inclusion of that language in that Senate amendment.

So, I have difficulty in seeing what the testimony is before this committee and other committees, what the public utterances are and how that conflicts with what takes place behind the scenes.

You think that this section of S. 898 is a big misunderstanding, that perhaps those postal officials that were urging its inclusion really did not understand what it really did?

Mr. WUNDER. I remember the discussions that led up to the inclusion of that amendment and——

Mr. ENGLISH. Maybe we have got some rebels within the Postal Service who simply do not believe that the Assistant Postmaster General knows what he has done.

Mr. WUNDER. That amendment has come to be like beauty. What it says is almost in the eye of the beholder. I think if you read the colloquies and the statements made by Senator Schmitt about his interpretation of it, and then Senator Stevens, on the other hand, about his interpretation of it, a lot of times they do not match up very well.

Mr. ENGLISH. You do not think the Senate knew what they were talking about?

Mr. WUNDER. Oh, I think that what they were trying to do was work out a compromise on a very thorny issue. And——

Mr. ENGLISH. Well, Mr. Wunder, that is where I run into trouble.

Mr. WUNDER. Yes.

Mr. ENGLISH. If we do not want to use this service that the Postal Service is proposing, why would you need a compromise?

Mr. WUNDER. Yes.

Mr. ENGLISH. Who is wanting them to do it?

Mr. WUNDER. I do not think that we would have any difficulty in supporting legislation that would keep the Postal Service out of generation three.

Mr. ENGLISH. Well, let me——

Mr. WUNDER. Given that we oppose them—we have already opposed them on generation two.

Mr. ENGLISH. Let me put it to you this way. If the Postal Service was truly supporting the idea—and believes the idea—that they do not want to get involved in this whole business, would it not be wise to simply strike that section?

Mr. WUNDER. I think that if you struck the whole section and your intent were to limit your prohibition on the Postal Service to generation three, then you still would have the problem of generation two. And what that section also provides are standards for accounting and for no cross-subsidy and things of that nature. I think that section could be clarified and that may be more beneficial than striking it. If the Postal Service prevails in their litigation, and it is not prohibited by the Congress in generation two, then it seems to me that that section does have some salutary things in it. What probably could be done to it to meet the goal that you are talking about is some clarifying language and the language could very well be an expressed prohibition on generation three.

Mr. ENGLISH. But, you have already stated that personally, you would support legislation to knock out generation two as well, would you not?

Mr. WUNDER. We are trying to knock out generation two in court.

Mr. ENGLISH. But I think you said earlier to answer one of my questions that you would support legislation for generation two?

Mr. WUNDER. Yes.

Mr. ENGLISH. Probably if we were to do the job, the thing to do is to knock out generation two and three.

Mr. WUNDER. That is right.

Mr. ENGLISH. Has NTIA found that the Postal Service is cooperative in its ECOM dealings?

Mr. WUNDER. Well, my dealing with the Postal Service—what transpired was they talk to us a lot. It did not seem to me that we ever could get down to brass tacks, and there were a lot of proposals, proposals in terms of, say, potential compromises to ameliorate the generation two problem. I offered some of those myself. We never really got positive responses from the Postal Service.

Mr. ENGLISH. Never could figure out where they were going?

Mr. WUNDER. I think I figured out where they were going.

Mr. ENGLISH. Where do you think they are going?

Mr. WUNDER. I figured out that they wanted to go into generation two, for sure, and I think that they believed that they had authority so to do. Short of winning in court, they foresaw the possibility there would not be legislation in Congress and they wanted to go forward with generation two.

Mr. ENGLISH. We have some people here within Congress who have dealings with the Postal Service and have told me that as the law stands now, there is no way that the Postal Service could subsidize ECOM out of its funds. In your opinion, is that correct?

Mr. WUNDER. I think there is certainly a fairly significant potential, now that the service is ongoing. Yes, sir; I believe that there is.

Mr. ENGLISH. So regardless of what the law says, the potential is there in your opinion?

Mr. WUNDER. Yes, sir.

Mr. ENGLISH. The requirement that the Postal Service establish a fully separate subsidiary, would that be one way of handling this problem and make sure that it does not happen?

Mr. WUNDER. It certainly would aid the situation. That was one of the problems that led to the amendment in the Senate. I believe that that would take legislation as well. The problem of S. 898 as it was originally drafted was that there was a requirement that they set up a subsidiary. In order to do that, I believe you have to amend the Postal Reorganization Act or some of the postal statutes because I do not believe that they have the authority to set up a separate subsidiary. And that was one of the reasons that led to that amendment.

Mr. ENGLISH. So in your opinion, Congress really has three alternatives available to them. They could just ban any government agency from offering services before private services are offered. They could require establishment of a subsidiary, particularly in the case of the Postal Service—and I do not know, it might work

with regard to other Government services as well—or, open the door and let them go.

Mr. WUNDER. I think that is about right.

Mr. ENGLISH. So the real issue—the question, though, needs to be decided by the Congress one way or the other.

Mr. WUNDER. Yes, sir.

Mr. ENGLISH. Congress needs to address this whole question of how far we go.

Mr. WUNDER. Absolutely. I absolutely agree with that statement.

Mr. ENGLISH. One of the troubling aspects of development of the ECOM service has been the lack of accountability by the Postal Service. We are into this business now that the Postal Rate Commission evidently does not have much say of what is going on. We do not have any stockholders, really, that have any type of input. Evidently, the Justice Department felt strongly enough about this whole matter, of course, that they filed a lawsuit with regard to it.

How do we prevent the Postal Service or any other agency from acting unilaterally?

Mr. WUNDER. The only way I can see, Mr. Chairman, quite frankly, is for the Congress to do something. I think you are probably, with respect to those particular agencies, the only one, really, that can do something about it.

Mr. ENGLISH. In your opinion, then, the executive branch does not have the authority in any way to deal with this issue?

Mr. WUNDER. We could not—we do not see options available to us to deal with the Postal Service situation.

Mr. ENGLISH. Or any other independent——

Mr. WUNDER. I——

Mr. ENGLISH [continuing]. Whether it is——

Mr. WUNDER. I have not thought about that one as much, but I would think I would say that that——

Mr. ENGLISH. You would be in the same boat as far as the Federal Reserve is concerned, would you not?

Mr. WUNDER. Yes, sir.

Mr. ENGLISH. Well, I guess there is one other question that arises with regard to the Federal Reserve, too, and that gets into this issue of the fact that the Federal Reserve is a little bit unique in that they are a regulator. At the same time, you have what is a regulator providing services to those it regulates. Does that seem to you to be appropriate?

Mr. WUNDER. Well, I grant you that does seem anomalous. And that is one of the issues, I think, that we are going to look at in terms of just this issue of Government competition with the private sector. and I will say what I said earlier to one of your questions about the Fed, and that is that we simply have not gone forward far enough with respect to the Fed to have a more definitive position.

Mr. ENGLISH. The subcommittee followed with a great deal of interest and concern the activities of the Department regarding WITS [Worldwide Information and Trade System]. It is our understanding that the WITS concept of a centralized, on-line data base has been discarded now and a much more limited information called AITS has been designed. Is that correct?

Mr. WUNDER. I believe that was correct.

Mr. ENGLISH. What was AITS standing for?

Mr. WUNDER. I do not know—AITS is what I know.

Mr. ENGLISH. Well, we will assume it stands for something. If you will provide that for the record, we will move along.

Mr. WUNDER. Yes, sir; I will.

Mr. ENGLISH. I would like to know what AITS stands for. We like to know all these intitials.

Mr. WUNDER. OK.

Mr. ENGLISH. We would assume that if you do furnish AITS with information to people in the private sector, that this would be a full cost recovery system, is that correct?

Mr. WUNDER. That is an ITA program, Mr. Chairman. I will have to get back to you for the record on that.

Mr. ENGLISH. OK, if you could identify that for the record as well, we would appreciate that, too.

Well, Mr. Wunder, we appreciate your testimony today. It has been very helpful and thank you again. It has been a very good contribution.

Mr. WUNDER. Thank you, Mr. Chairman.

Mr. ENGLISH. Our next witness is Mr. Timothy Muris, who is the Director of the Bureau of Consumer Protection, Federal Trade Commission.

Welcome, Mr. Muris.

STATEMENT OF TIMOTHY J. MURIS, DIRECTOR, BUREAU OF CONSUMER PROTECTION, FEDERAL TRADE COMMISSION

Mr. MURIS. Good morning. Thank you, Mr. Chairman.

I would like to introduce Andrew J. Strenio Jr. from our staff who is with me today.

On behalf of the Bureaus of Consumer Protection and Economics of the Federal Trade Commission, I am delighted to have this opportunity to express our views regarding the provision of telecommunications and information services by the Federal Government in competition with the private sector, and to discuss the problems connected with competition between the Government and the private sector in general.

With your permission, I will submit my formal statement for the record and briefly summarize it now.

As I am sure you are aware, the FTC staff follows the twin mandates of enhancing consumer welfare and promoting competition. In this role, we are concerned when a government body provides services directly without a clear, direct showing that the Government is somehow able to provide these services with greater flexibility, lower cost and a superior capacity for innovation than the private sector. Any such showing should be clear cut, carefully examined and subject to review by appropriate officials outside the agency in question.

Let me make a few observations about the problems that can arise when the Government directly provides services. To begin with the classic justification for Government enterprise is that the market has failed and the private sector cannot or will not provide particular services on its own.

Without question, this classic justification does not hold for the information service industry. Many private entrepreneurs are anxious and able to provide information services.

Even when markets do fail, it is important to emphasize that the solution of having government directly provide a good or service should be approached cautiously. One reason for this caution is that we have seen government agencies overstepping whatever limited justification initially existed for their provision of a service. Moreover, government enterprise may overstay its welcome. As times change, so do technologies and market conditions. Yet cumbersome bureaucracy may be slow to recognize when it is time to end their provision of a service.

One straightforward example of this tendency to overstay involves our transportation services. There was originally some justification for creating the Interstate Commerce Commission to regulate the railroads, which indeed had a monopoly position at the time. However, when competition for the railroads arose in the form of trucking, the obvious solution would have been for the Government to end the regulation of railroads, but instead the Government extended its regulation into trucking.

If you apply these general observations to government operation of telecommunications and EFT services, you are led to the conclusion that such operation is not desirable. We believe that Government competition with private industry is not only unnecessary here, but that it may well have detrimental effects on the future evolution of the industry.

Indeed once the Government is a direct competitor, whatever the rationale for that competition, competition no longer takes place on a level playing field. For private firms, the prospect of facing a competitor financed by public funds and whose survival and success may be more heavily influenced by nonmarket considerations than by cost effectiveness, certainly increases their risks. It can also reduce their willingness to enter a field and provide needed and innovative services.

This subcommittee is exploring how Congress can insure that government agencies do not usurp the role of private enterprise. In your letter inviting me to testify, you asked whether we can rely on existing regulatory structures and existing oversight procedures. I believe the answer to both of these questions is not necessarily. As I explain in some detail in my written testimony, both the history of ECOM and of the Federal Reserve's efforts with EFT demonstrate this point.

Mr. Chairman, we agree with you that the current version of H.R. 4758 is an appropriate starting point for debate and deliberation. Based on our past experience, we have every reason to believe that the problems you are addressing are real and that they extract heavy costs from society in terms of unnecessary Government expenditures, foregone opportunities for technological innovation and enfeebled competition.

You have provided leadership on this issue and we urge you to continue with all feasible speed. We believe that it will be extremely difficult to extract agencies from government enterprises once their involvement has become an accomplished fact. We hope your work can be completed while the crucial questions of the propriety

of government entry into new areas remain unencumbered by a strong status quo.

Thank you.

Mr. ENGLISH. Thank you, Mr. Muris. Without objection, we will insert your prepared remarks in the record at this point.

[Mr. Muris' prepared statement follows:]

Statement of

Timothy J. Muris
Director
Bureau of Consumer Protection
Federal Trade Commission

THE VIEWS EXPRESSED HERE ARE THOSE OF THE FEDERAL TRADE COMMISSION STAFF AND DO NOT NECESSARILY REFLECT THE VIEWS OF THE COMMISSION OR ANY INDIVIDUAL COMMISSIONER.

Mr. Chairman and Members of the Committee:

On behalf of the Bureaus of Consumer Protection and Economics of the Federal Trade Commission, I am delighted to have this opportunity to express our views regarding the provision of telecommunications and information services by the Federal government in competition with the private sector. The FTC staff, as you are aware, follows the twin mandates of enhancing consumer welfare and promoting competition. In this role, we are concerned when government agencies provide services directly without a showing that the government could provide these services with greater flexibility, lower cost, and a superior capacity for innovation than the private sector. Any such showing should be clear-cut, carefully examined, and subject to review by appropriate officials outside the agency in question.

Indeed, just last October, my colleague, Thomas Campbell, Director of the Bureau of Competition, stressed before this very Subcommittee our observation that private markets generally work better than government enterprise. Both economic theory and empirical evidence support the proposition that competition among firms in a free market produces the most efficient allocation of resources and best encourages dynamic growth.[1] We thus share

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[1] The evidence is particularly compelling in studies of industries where government competes directly with private suppliers of goods and services. A series of these studies has

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your concern that government provision of information services may increasingly stifle the development of innovative and competitive services by the private sector. You have already begun to address this issue in your bill, H.R. 4758. The FTC staff supports the goals underlying this proposed legislation.

Before discussing specific examples, let me begin with a few general observations about the problems associated with the direct provision of services by government enterprise. The classic justification for government enterprise is that the market has failed and the private sector can not--or will not--provide the service on its own. The information service industry does not suffer from this problem. We observe many private

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[1] (FOOTNOTE CONTINUED)

established the greater efficiency of private producers, a result at least partly explained by government managers' greater concern for political issues than for consumer welfare, as compared to private firms. See, e.g. Ahlbrandt, Efficiency in the Provision of Fire Services, 16, Pub. Choice 1 (1973) (finding private firm provides good at lower cost than government agency); Crain & Zardkooni, A Test of the Property-Rights Theory of the Firm: Water Utilities in the United States, 21 J. Law & Econ. 395 (1978) (finding higher operating costs in publicly owned water utilities); Davies, The Efficiency of Public v. Private Firms. The Case of Australia's Two Airlines. 14 J. Law & Econ. 149 (1971) (finding that private company more efficient than public firm); Lindsay, A Theory of Government Enterprise. 84 J. Political Econ. 1061, 1065 (1976) (determining government managers maximize self interest by producing output Congress likely to value more highly than consumers do); Peltzman, Pricing in Public and Private Enterprises: Electric Utilities in the United States, 14 J. Law & Econ. 109 (1977) (finding that government-owned firms adopt pricing policies that enhance their political support, not consumer welfare).

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entrepeneurs anxious and able to provide information services. Thus, government enterprises such as the U.S. Postal Services' ECOM (Electronic Computer-Originated Mail) or the payment and collection operations of the Federal Reserve Bank, which compete head-on with private information suppliers, do not appear to be justified on generally accepted "market failure" grounds.

Even when markets do fail, the solution of having government provide the good or service should be approached cautiously. Given the chance, government agencies may overstep whatever limited justification exists for their provision of a service. Moreover, government enterprise may overstay its welcome. As times change, so do technologies and market conditions. Yet a cumbersome bureaucracy may be slow to recognize when it is time to end their provision of particular services in the light of new realities, however warranted that provision may have been when created.

The tendency toward inefficiency in government enterprise is not our sole concern. With free competition, more efficient suppliers of goods and services will drive out the less efficient. Inefficiency is a self-correcting problem in markets where all producers compete on equal terms. But government and private enterprise do not compete equally, not when government has access to operating capital through political channels rather than the capital markets private enterprise must use. In short, the presence of government enterprise in the industry alters the

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alters the very terms of competition. Private suppliers can no longer be assured that superior goods and services guarantee their success, and we can no longer assume that competition will cure inefficiency in the market.

Of course, a society may reasonably determine that a market solution is inappropriate or that social needs can only be met through government action. Yet even here, government should encourage or direct the provision of services with a minimum of inefficiency and of distorting effects. Only if less intrusive alternatives (such as financial incentives, creation of "artificial" markets to rectify market shortcomings, or regulation) are insufficient should government directly provide the service.

In applying these general principles to government operation of telecommunications and electronic data processing (EDP) services, we believe that government competition with private industry is not only unnecessary but would also have detrimental effects on the future evolution of this industry. Once the government is a direct competitor, whatever the rationale, competition no longer takes place on a level playing field.

The prospect of facing a competitor financed by public funds, and one whose survival and success may be more heavily influenced by political considerations than by cost-effectiveness in delivering services, increases the risk that private firms face. This increased risk, of course, reduces the number of private

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companies willing to compete with the government. In addition, competing with the government entails the risk that the rules of the game will favor the public enterprise, particularly if the agency operating the enterprise will have regulatory powers over the activity in question. For these reasons, the private sector will be skeptical about the prospect of meaningful competition, and therefore reluctant to compete at all. Such an environment is obviously detrimental to industry growth and development.

Moreover, however limited its initial involvement, the mere existence of a government enterprise inevitably creates the concern that its role will expand. In making investments, decision makers must consider the long-run returns. This is particularly true in an industry such as telecommunications in which the technology is rapidly evolving and firms evaluate investment on the basis of benefits that will materialize only with high volume usage. Again, if earning appropriate long-run returns is made more risky by having to compete with government, then private investment will be made at less than efficient levels.

This Subcommittee is exploring how Congress can ensure that government agencies do not usurp the role of private enterprise in the information industries. In your letter inviting me to testify, you asked, "Can we rely on existing regulatory structures, with a little prodding from the Congress? Can we depend on the oversight process to ensure that agencies do not go

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off on their own?" I believe that the answer to both of these questions is "not necessarily." To illustrate that answer, let me discuss both the proposed ECOM (Electronic Computer-Originated Mail) service that the U.S. Postal Service will offer and the nationwide electronic funds transfer (EFT) network operated by the Federal Reserve System.

One of our major concerns (beyond the validity of the rationale for government provision of these services in the first place) is that the initial entry of the government into these two services, though currently limited, will lead to further expansion. In both cases the services in question involve networks for transmitting and processing information in electronic form to replace the physical movement of paper. Although the establishment of these systems might be viewed merely as using modern technology to increase the efficiency of Post Office and Federal Reserve functions that these two agencies have traditionally performed, these information systems lend themselves readily to uses that go far beyond present applications and traditional roles.

The ECOM system will use common carrier telecommunications links between message senders and a number of message receiving centers in post offices at various strategic locations throughout the nation. After a message is received at one of these centers, it will be printed out on paper and placed in the first class mail stream. This system thus avoids the necessity of physically

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transporting the message on paper between the location of the sender and the postal facility at the receiving end.

Once the initial ECOM system is in operation, there will be temptation for the Postal Service to become involved in providing additional services. For example, pressure could mount to extend the use of the electronic information network to provide end-to-end electronic services to the receiver. This short next step would place the Postal Service in direct competition with private electronic information network services already in successful operation. We thus support the recommendations contained in the 1979 Presidential Review Memorandum on Postal Service Involvement in Electronic Mail Offerings that the Postal System be prevented from offering end-to-end links or from building its own transmission network.[2]

A second area of concern is the involvement of the Federal Reserve System in the operation of electronic funds transfer systems.[3] In brief, these systems substitute electronically encoded payment information in place of checks or other paper instruments. Because the technology is very flexible, a variety

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[2] 44 Fed. Reg. 43829-30.

[3] FTC Staff letter to Mr. Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, November 5, 1980; Statement of Thomas J. Campbell, Director of the Bureau of Competition, before the Government Information and Individual Rights Subcommittee of the Committee on Government Operations, U.S. House of Representatives, October 22, 1981.

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of configurations are permitted. The history of EFT demonstrates how government enterprise in support of a traditional government function can quickly grow into new areas where it competes on uneven terms with private business.

One rapidly growing expansion of the EFT concept involves the Automatic Teller Machines (ATMs) that are now found on the front of many banks. These enable customers to withdraw funds, transfer funds between accounts, and determine account balances using magnetically encoded debit cards that identify the customer's account. At present there are approximately 100 privately-operated regional ATM networks in the U.S., most of which were organized in the past two years. These allow customers of banks belonging to the system to use the ATM machines of any bank in the system. Currently, plans are being made to join these regional systems into nationwide networks.[4] The rapid growth of ATM networks demonstrates the capability of private firms, depository institutions, and suppliers of telecommunications and EDP services to respond quickly to new opportunities and incentives in a competitive environment, and raises the question why government enterprise in this area is needed or desired.

A second, and older, major application of EFT is found in the

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[4] "Electronic Banking," Business Week, January 18, 1982, p. 70ff.

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automated clearing houses (ACHs). There are presently 39 ACH facilities, all but one of which are operated by the Federal Reserve system.[5] An ACH provides electronic clearing and settling of payments among despository institutions using information submitted on magnetic tape.

This electronic clearing eliminates the need for slower and more costly processing of paper-based payments systems such as checks. This was the primary rationale for the initial interest and involvement of the Federal Reserve. In 1968, when the ACH concept was initiated, there was concern that the operation of the paper check clearing system was coming under heavy strain as a result of the growing volume of paper checks. In the interest of stemming the flow of paper checks, the Federal Reserve participated with a number of commercial banks to develop ways of improving the efficiency of the payment system. In 1971, the Monetary and Payment Systems Planning Committee recommended the development of regional automated clearing facilities that could eventually be linked together to form a national system.[6]

The present, expanded operational role of the Federal Reserve System in this system was not a necessity. It resulted because the Federal Reserve provided free data processing and delivery

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[5] Campbell testimony, op. cit., p. 4.

[6] The Final Report of the National Commission on Electronic Fund Transfers, October 1977, p. 206.

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systems for the commerical banks participating in the ACHs. Beginning on January 1, 1981, the Federal Reserve System was required to begin charging for services to depository institutions. Until then it had been possible to argue that the provision of EFT services was defensible on the grounds that charging for these services (while continuing to provide ffee paper check clearing) would distort choices in favor of continued use of paper checks and slow the development and growth of electronic clearing. With the change in law, however, this excuse no longer holds whatever validity it may once have had.

From the very beginning, the operational role of the Federal Reserve in the ACHs raised serious policy concerns about its future involvement in EFT. The 1977 report of the National Commission on Electronic Funds Transfers (NCEFT) essentially accepted the status quo by concluding that it was appropriate for the Federal Reserve to continue to provide the "basic level of ACH-type services"[7] necessary to clear batched payments. However, this conclusion was based mainly on the recognition that Federal Reserve involvement in ACH was an accomplished fact and essentially paralleled its accepted role in processing paper checks.

In the case of point of sale (POS) transactions, which use on-line message switches rather than tapes to transmit payment

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[7] Ibid., p. 214.

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information, the NCEFT recommended that the Fed not assume any operational role. Its concern was that "premature governmental entry into an operational role in POS switching and clearing would tend to freeze current technology and stifle incentives for innovation in this rapidly evolving area. Even if the Government operated its POS facility free of subsidies, ... its very presence would dampen private sector investment and deter entry by new competitors."[8]

Since the date of NCEFT's report, the technological capabilities of the Federal Reserve's ACH systems have been substantially expanded. For instance, the use of tapes is being replaced by on-line telecommunications links between the Federal Reserve and ACH members. This step is part of the long range plan of the Federal Reserve to establish a nationwide data communications network known as "FRCS 80."[9] When this system is fully operational, each depository institution in an ACH will have an on-line connection with the Federal Reserve.

Unfortunately, the characteristics of this system greatly increase the likelihood that the Federal Reserve will continue to dominate EFT. When ACH operations were confined to batch

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[8] Ibid., p. 216.

[9] "The Federal Reserve's Role in the Payments Mechanisms and its Communication Plan." Statement by Theodore E. Allison, before the Subcommittee on Government Information and Individual Rights of the Committee on Government Operations, House of Representatives, October 22, 1981, p. 5ff.

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processing of payment information submitted on magnetic tapes, a reasonably clear-cut distinction could be made between the ACH functions provided by the Federal Reserve and private sector POS systems. As the FRCS-80 system is implemented, however, this technological distinction will no longer exist. Thus, in all likelihood, the Federal Reserve System will be in competition with private sector networks that have been designed for on-line applications. In sum, the Federal Reserve's apparently short-run market intrusion has developed into a serious threat to the feasibility of competition by the private sector.[10]

The ironic aspect of both ECOM and EFT is that it would be hard to find technologies in which private sector development and innovation have been more pronounced than in data processing and telecommunications. Yet these are the very areas upon which the U.S. Postal Service's and the Federal Reserve's information "services" tread most heavily. There is simply no reason to doubt the ability and readiness of the private sector to assume responsibility for existing--and reasonably anticipated future--

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[10] Nor is there a strong public interest justifiction for the Fed's actions. As the Bureaus of Competition and Economics stated in their letter to Theodore E. Allison of the Federal Reserve System, op. cit., p. 2: "The likelihood of market failure has not been demonstrated, nor do the central bank functions of the Federal Reserve compel it to operate these facilities. Moreover, there is a large number of private sector firms which have the capability and are willing to provide the data processing and communications services necessary to operate ACH systems, particularly given the continuing availability of Federal Reserve net settlement services."

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demands for these information services.

In conclusion, we agree with you that the current version of H.R. 4758 is an appropriate starting point for debate and deliberation. Based on our past experiences in this field, we have every reason to believe that the problems you are addressing are real and that they extract heavy costs from society in terms of unnecessary government expenditures, foregone opportunities for technological innovation, and enfeebled competition.

This Subcommittee has provided leadership on this issue and we urge it to continue with all feasible speed. We believe that it will be extremely difficult to extract agencies from government enterprises once their involvement has become an accomplished fact. We hope your work can be completed while the crucial questions of the appropriateness of government entry into new areas remain unencumbered by a strong status quo.

Thank you.

Mr. ENGLISH. Mr. Muris, I am going to ask you some of the same questions I asked Mr. Wunder. I think it is important that we get this for the record with regard to this question of the names of electronic mail and electronic fund transfers. In your opinion, are those the right labels to be put on these services?

Mr. MURIS. We are really talking about the same basic processes, and private enterprises can indeed provide them. We are not talking about something that I think needs to be a function of the Government.

Mr. ENGLISH. Well, in regard to those names, though, are we not really providing enhanced telecommunications services? Is that what we are really doing, just delivering digital rows on voice messages?

Mr. MURIS. Yes, sir; calling it electronic mail, for example, gives the impression that this is a function that is a logical extension of the activities of the Postal Service. That is the wrong impression to give. I agree with you completely.

Mr. ENGLISH. The other question, of course, is this issue of unilateral decisions. It is possible that each government agency would be able to unilaterally make its own decision whether it should offer these services, what kind of services to offer, and to whom the services should be offered, regardless of whether the service competes with the private enterprise or not.

Do you think government should be able to do that?

Mr. MURIS. Agencies certainly should not have the unilateral right to make those decisions. We ought to have a strong presumption that private enterprise can provide services. Only where that

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presumption is shown to be false should we allow the Government to provide particular services. Individual agencies should not make a final determination, but should be subject to review by other Government officials, Congress, perhaps the President, and even in some circumstances, by the courts in accordance with standards specified by the Congress.

Mr. ENGLISH. So you would agree with Mr. Wunder that we may need some legislation to clarify exactly what the criteria is for offering of these types of services in that, for the most part, it should hinge on the question of whether or not private enterprise is offering those services, would that be correct?

Mr. MURIS. Yes, sir. The question should not just be whether private enterprise is already providing a given service, but also whether we have reason to believe that private enterprise will get into the business of providing that particular service. If we are at a very early stage of development, we need to ask whether we are dealing with the kind of industry where it is likely that private enterprise will develop the expertise in due course.

Mr. ENGLISH. Well, would you favor legislation that would prohibit either the Postal Service or the Federal Reserve from offering any form of telecommunication services, regardless of whether it is as a resale carrier or through its own facilities?

Mr. MURIS. I think such legislation could be beneficial. However we have to recognize two points: One, both of these Government entities are some way along in the process and we would need to establish some orderly transition to phase them out of the activities. Two, in the context of the Federal Reserve given that the Federal Reserve is a regulator, it may be appropriate for them to establish some regulation of the private service. However as you suggested to Mr. Wunder, it is inappropriate for the Federal Reserve to be in competition with those they regulate.

Mr. ENGLISH. Particularly since they regulate the very people they are competing with.

Mr. MURIS. Yes, sir.

Mr. ENGLISH. It is a little difficult to compete under those circumstances.

Mr. MURIS. Yes, sir. If I were a competitor, I would be extremely leery of competing with the same institution that establishes the rules.

Mr. ENGLISH. That is what is known as being behind the eightball, is it not?

Mr. MURIS. Or worse.

Mr. ENGLISH. Or worse.

If the final nonexperimental ECOM were approved, what steps would be needed to assure that the Postal Service would not subsidize ECOM out of its monopoly of revenues. As I pointed out to Mr. Wunder, I have heard people here within the Congress who have a great deal of interest in postal law that say that presently there is no way that the Postal Service can provide subsidization to ECOM. Do you agree with Mr. Wunder that that is not altogether true?

Mr. MURIS. Yes, sir. I agree. I think it is a dubious proposition, given the ability of the Post Office to impose costs on us in the way that it does. The Post Office has a monopoly over a wide variety of services. Since we all want to use those services and they can

decide what we have to pay, the opportunity for cross-subsidization in fact is substantial.

The only sure protection against the prospect of cross-subsidization is to eliminate the ability of the Postal Service to engage in direct competition. I agree with Mr. Wunder that a separate subsidiary would be appropriate, but even then, one would still have to establish elaborate rules about funding, and setting charges. The detailed regulation that approach would require contrasts unfavorably with the option of not allowing the Postal Service to be a direct competitor.

Mr. ENGLISH. I suppose too, then, that we would also have a question of who is going to make sure they are, in fact, a subsidiary in more than name only. We have got a little problem right now with regard to the Postal Rate Commission. It was supposedly set up to kind of oversee this activity with regard to rate increases. I assume that would be the logical step—to turn to the Postal Rate Commission to determine what those rates are and make sure that everything is on the up and up; but, as we have seen, the Postal Rate Commission has been totally ignored. I suppose that is the reason we have court cases pending with regard to these issues. How do you keep a group from acting unilaterally, particularly an independent regulatory agency such as the Federal Reserve or the Postal Service?

Mr. MURIS. Your bill is an excellent first step for debate. The general principles that you annunciated to open the hearings are what we need to focus upon. We need to realize that the presumption that we have long had in this country is the correct one. That presumption is that private enterprise, absent a strong showing to the contrary, is the best way to provide service. We cannot leave it to the agencies to make a unilateral determination to the contrary.

Mr. ENGLISH. In other words, the only way that you can see to handle it is to legislate it?

Mr. MURIS. Yes, sir.

Mr. ENGLISH. What distinguishes the electronic fund transfer operations of the Federal Reserve and the ECOM activities of the Postal Service other than the fact that the Federal Reserve's operations are much more sophisticated and more mature than those of the Postal Service?

Mr. MURIS. I think technologically there is really nothing to distinguish them other than that fact. There is a different history, of course, behind their development. I think that illustrates part of the point, that what we really have here are activities that the private sector can provide.

Mr. ENGLISH. You have already hit the issue of whether or not it would be appropriate to have a regulatory group, such as the Federal Reserve, making decisions with regard to someone it is competing against and regulating at the same time. You do not believe that would be appropriate, is that correct?

Mr. MURIS. Yes, sir. That would not be appropriate.

Mr. ENGLISH. Both the Federal Reserve in its ACH operations and the Postal Service in its ECOM are pricing the service offerings at below cost. It is my understanding that the Federal Reserve is pricing at perhaps 15 percent of its cost, the Postal Service at even a smaller fraction of its cost. At least the Federal Reserve appar-

ently plans to continue pricing it at levels below cost for several years.

Would such pricing policies be considered predatory if undertaken by private firms?

Mr. MURIS. I think the answer to that is yes, but it needs some explanation. The concept of predatory pricing is a complex one, but even those who are suspicious of finding predation very often—and most scholars and courts are now suspicious—recognize that in some circumstances the competition between two entities is unfair. Where one entity has a source of funds that the other individual could not reasonably expect to have, or where one entity may even have control over entry or other terms of competition, then indeed there is predation.

Now, those circumstances arise in a very small number of cases when you have competition between firms in the private sector. But when you have competition with one member in the public sector and one member in the private sector, then indeed that is a real concern we have seen occur in other government areas.

Mr. ENGLISH. Well, in particular, if you have an agency that is indicating that it plans to continue this practice for the next several years, it would seem to me that that would apply in spades, would that be correct?

Mr. MURIS. Yes, sir.

Mr. ENGLISH. What authority does the Federal Trade Commission have to investigate and take action against anticompetitive offerings by Government agencies?

Mr. MURIS. The Federal Trade Commission was created in part to investigate and make reports to the Congress, the President and the public regarding other government and private sector activities. We have the power of persuasion, but we have no enforcement powers. We have no statutory power to stop other Government agencies from taking such actions.

Mr. ENGLISH. Have you provided Congress or the President with any reports along this line?

Mr. MURIS. The Commission, has provided, over the last several years, both within the executive branch to the Federal Reserve and the Postal Service and to Congress, its opinions along the lines that I have expressed here today. Under Chairman Miller, we have revitalized our function of commenting on other governmental activities that harm consumers. We have emphasized that function considerably.

Mr. ENGLISH. Are those, then, general comments on the status of the situation, or have they, in fact, been investigations?

Mr. MURIS. We have not used subpena or investigative powers. We have gathered information from public sources and we have used that information to provide reports. This is a very traditional function within the Commission. That function was somewhat downplayed in recent years, but we plan to return the Commission to this historic function of providing Congress, the President, and the public with such information.

Mr. ENGLISH. Are there any plans to investigate the entire matter with regard to, let us say, the predatory pricing issue?

Mr. MURIS. We plan to continue to use appropriate forums, such as this one, to express our view that there are considerable problems here.

Mr. ENGLISH. I think one area that might be of interest, particularly given the fact that this problem is growing, is this issue of predatory pricing by government agencies. I think that we are seeing substantial indications, at least, that private enterprise is being squeezed out. I think that Congress and, I would think, also the administration would find it of interest to have an investigation into this predatory practice issue—whether or not perhaps that is what is taking place.

I want to thank you very much for appearing before us today. Your testimony has been extremely helpful. Thank you very much.

Mr. MURIS. Thank you, Mr. Chairman.

Mr. ENGLISH. Our next witness is Mr. Robert Willard, who is the vice president of the Information Industry Association. I want to welcome you here today. Thank you for appearing before us.

STATEMENT OF ROBERT S. WILLARD, VICE PRESIDENT, GOVERNMENT RELATIONS, INFORMATION INDUSTRY ASSOCIATION, ACCOMPANIED BY ALLAN FOX AND PEGGY MILLER, ATTORNEYS. KAYE, SCHOLEN, FIERMAN, HAYS & HANDLER

Mr. WILLARD. Thank you, Mr. Chairman.

Mr. ENGLISH. Would you introduce the people you have with you?

Mr. WILLARD. Yes, sir. I am accompanied today by Allan Fox and Peggy Miller of the law firm of Kaye, Scholen, Fierman, Hays & Handler, who are attorneys for one of the companies that is involved in the task force I will be describing in my testimony.

With your permission, Mr. Chairman, I would like to read part of my testimony into the record and summarize other segments of it.

I am Bob Willard, vice president of the Information Industry Association which is a trade association comprised of more than 150 companies that are involved in providing information content in the marketplace. We have attached a copy of our membership roster and I will also submit to the subcommittee a copy of our most recent membership directory to give you an idea of the breadth and depth of the information products that are offered by our members.

I am appearing today on behalf of IIA and our Committee on Government Relations. We have had a Committee on Government Relations almost since the organization began in 1969 and one of its principal focuses has been on the subject of Government competition.

Frequently, we find it necessary to put together task forces to focus on a particular example. Ironically, the same month in which you are holding these very important hearings, we have had to establish a new one to look at the activities of the National Library of Medicine and it looks like another one that we have had going for the past 3 years may finally have completed its mandate and is no longer needed.

The new task force on NLM will include a number of companies and one of them is Excerpta Medica; Allan Fox and Peggy Miller are attorneys for that company.

First of all, Mr. Chairman, let me applaud you for the role you have taken in focusing attention on this particular issue. As I have indicated, we have been dealing with it for years and we are glad to see this level of policy attention on it.

We are in full agreement with the objective of your bill, H.R. 4758, which you have stated, is "to insure that the Government does not stifle the development of innovative and competitive information services by private enterprise."

In my testimony today I would like to first give some general concerns on the subject of Government competition, then turn to a few concrete examples and, finally, conclude by focusing on some of the questions that were contained in your letter of invitation.

First of all, with regard to the workings of an information marketplace, and a marketplace in general, the former Assistant Attorney General in the Carter administration, John Shenefield, gave a very good presentation on the workings of the marketplace and the disruptions that take place when the Government participates unfairly in that marketplace. In almost basic economic education terms, he described the function of price as a signal to consumers and to investors on how they are going to use their dollars, and he pointed out that how, when the Government participates and invokes pricing policies that do not really reflect full cost, this tends to skew the marketplace. I think this was also echoed in the testimony of the prior witness.

Now, Shenefield was discussing Government enterprises in general. I would like to focus specifically on information, and I think it has an important role, especially in a Government such as ours, which puts a high premium on having an educated and informed citizenry.

There is obviously a conflict between that principle that in a democratic free enterprise system the Government should not compete with its citizens and, on the other hand, the Government's need to keep its citizens informed.

But I think it is absolutely necessary that this issue be dealt with. Let me just briefly describe to you what I acknowledge is really a worst-case scenario, but nevertheless, I think some attention should be paid to it.

If we have a situation where the Government is accumulating and offering in the marketplace an information product, whether it be on medical research or energy or educational opportunities, and through some public policy decision says it is for the good of the public that we put this out at a subsidized or maybe even free price. What happens in the marketplace, then, is that the other providers of that type of information may leave the marketplace, may decide to invest their resources in other activities.

Well, you might say, that is OK, we still have the information available. But what could happen is that if there were something in that body of information that, for any reason, the Government said, let us not let the people know about that, you do not have the checks and balances of alternative supplies of information to let the citizens have access to that important information.

Now, I indicated that might be a worst-case scenario, but I have an editorial pinned up on my bulletin board in my office from the Wall Street Journal back in 1978, and that actually recounted a situation in which a Government employee in an information activity had already distributed a report that the Department of Energy felt no longer accurately reflected facts that were consistent with its current policy. This official actually instructed the librarians to remove the product from their shelves and destroy it. It does not take much of an imagination to anticipate whether future unpopular information would ever get out in the first place, if we now have people who ask that information which is already out be taken off the shelves and destroyed.

We must keep in mind that the public interest is best served when there are many providers of information, offering that information in a variety of different forms.

Essentially, competition is the information user's insurance policy. It protects against price exploitation, access controls, unreliable content, limited selection, poor quality service, and lack of innovation, and if Government policies eliminate or preclude private sector competition, the result will inevitably be a less informed public.

These philosophical reasons should be apparent and should direct our policy, but very often, government programs operate instead to restrict the private sector and our files are just filled with examples.

What I would like to do is to focus on two of those examples. When we first started thinking about this hearing, we thought one of the examples would be a rather extensive treatment of something called the Worldwide Information and Trade System, which you mentioned in your questioning of Mr. Wunder. The other is the National Library of Medicine.

Fortunately, we can say that the WITS program no longer exists. It was only this Tuesday that we had a meeting with the Department of Commerce and they announced a new program, which you also referred to, AITS, which stands for Automated Information Transfer System, and this program, unlike the originally conceived WITS, really appears to be an appropriate automation of existing foreign trade activities, whereas the WITS program was a broad-based data collection effort that would have duplicated and competed with many private sector information services. We think Commerce has seen the light and they have developed now a system that complements, rather than competes with, the private sector.

I think the WITS experience, which engaged many of our members for more than 3 years, and itself was modified only after the Government had spent $7 million, has a lesson, and that is that a policy must be developed to rationalize Government activity without needlessly expending a great deal of time and money. The WITS solution has not ended problems of Government competition.

Let me now turn to the National Library of Medicine in more detail, because I think this example represents one of the more egregious cases of unfair government competition, and it continues to concern the industry.

NLM, which was established in 1956, is a major repository of the world's biomedical literature. We do not have any quarrels with

the traditional library function of collecting information and we believe that NLM performs this function in a most commendable manner. However, in addition to this traditional library function, the NLM in the past decade has substantially expanded its operations. It now does far more than simply collect information. It reorganizes and repackages this information, adding value to it, and it markets the information in exactly the same manner as a private commercial operation would. For example, for some time now, it has agressively marketed computerized descriptive indices of biomedical literature in direct and unfair competition with a number of private organizations. Its computerized Medical Literature Analysis and Retrieval System, or MEDLARS, provides access to a number of different data bases, and is marketed through online access and through licensing of the data base tapes. It agressively markets the system both here and abroad, having signed up more than 1,530 online domestic users and several foreign governments. In addition to providing direct access to its computer, it also licenses the tapes to a number of foreign governments and private vendors, and it is constantly seeking to upgrade the system and offer new services.

However, there is one critical distinction between MEDLARS and similar private services—MEDLARS is financed mainly through taxpayer subsidies. The NLM charges its users only a minimal fee which is far below its full cost and substantially lower than the private enterprise can realistically meet. Unlike private enterprise, for example, the NLM does not include in its fees any historical costs, costs associated with the editorial preparation of its products, including acquisition of the materials indexed, or some of the costs related to the computer systems and personnel necessary to store and retrieve these products.

As a result of these subsidies, until very recently the NLM was able to offer MEDLARS service for $8 to $15 per online hour. Since October 1981, it has charged $15 to $22 per hour, including telecommunications charges. The average price charged for access to similar private sector data bases is $73 per online hour, excluding telecommunications charges. I think we can safely assume that this price differential is not due to any greater inefficiency on the part of the NLM.

As further evidence of this taxpayer subsidy, I should note that the NLM in 1981 requested an additional appropriation of over $1.3 million to upgrade MEDLARS through the introduction of the MEDLARS III system. That system will ultimately cost at least $6 million and will enhance NLM's ability to provide services now or soon to be available from the private sector. Indeed, the NLM, in its budget justification, refers to MEDLARS III as a high-priority item.

And who is the beneficiary of this taxpayer subsidy? In many cases, the taxpayer is subsidizing use of MEDLARS by some of this country's largest corporations. I have attached to my testimony a chart showing the top 20 commercial users of MEDLARS, and the extent to which they have been receiving taxpayer subsidies from January 1980, to June 1981. I would respectfully suggest to the members of the committee that, at a time when we are struggling

with budget deficits and cutting social programs, these subsidies make no sense.

Even more troublesome than the subsidy the NLM gives domestic corporations is the subsidy it provides to foreign users. The NLM has entered into bilateral agreements with 14 foreign governmental entities, under which it provides online access or gives copies of its data base tapes to each foreign entity. In return, instead of paying any fees to the U.S. Treasury, each such recipient provides, or pays someone to provide, indexing services for the NLM.

The NLM's legal authority to enter on its own into these bilateral agreements directly with foreign governments or their agencies is dubious at best. Equally important, however, these bilateral agreements are a particularly bad deal for the U.S. taxpayer. The U.S. Treasury receives absolutely no fees for the use of the MEDLARS system under the bilateral agreements. Yet each foreign government is free to provide to its own domestic users access to MEDLARS at any fee it wishes. For example, last year the British charged $75 per hour, thus making a substantial profit, while the U.S. Treasury received nothing. Conversely, the West Germans made MEDLARS available at $20 per hour, undercutting the private sector's ability to compete.

It is not possible for us to determine the amount of subsidies being provided to foreign users of the MEDLARS system. The NLM denied a freedom of information request for this information on the grounds that the identity of foreign users and the number of connect hours used are both trade secret information and national security information. It is interesting to note that NLM did not consider similar information about domestic users to be trade secret information. Since this subcommittee's jurisdiction also includes the Freedom of Information Act, I would respectfully suggest that you may wish to explore the NLM's decision to deny this request with the NLM and HHS.

In your letter inviting me to testify, Chairman English, you asked what the IIA thought the proper role for the Government ought to be in the provision of bibliographic data base services. We believe that the Government should provide only those information services that are not adequately or appropriately provided by the private section and then, only after affording the private sector every opportunity to provide the service. Once the private sector inaugurates comparable service, the Government should, as a general rule, cease its service. And where the Government does compete with the private sector, it should be required to compete under the same rules as everyone else, including full-cost recovery.

In the case of MEDLARS, we recognize that some users may have a need for bibliographic biomedical information, but not be able to pay a full-cost recovery rate. Generally, we would support the concept of direct cash subsidies to such users. However, in light of current political and economic realities, it would not be unreasonable to us that the subsidy be in the form of reduced prices, and that it be continued for nonprofit institutions, such as universities and hospitals that have a particular need for health care information. But subsidies to domestic corporations and foreign users, at a time of budgetary constraint, are inexcusable. The private sector is

ready and willing to provide the data. Companies and organizations like Excerpta Medica, the Institute for Scientific Information, BIOSIS, Chemical Abstracts Services, and the American Psychological Association provide information products and services in the medical research area. Equally significant are the uncounted companies that may have similar competing products on their drawing boards, but whose prudent managers will not commit the products to a marketplace dominated by Government-subsidized unfair competition.

One final point needs to be made. You have asked whether appropriate changes in policy can be effected through regulation or whether legislation is necessary. Our experience with the NLM, as well as with other agencies, convinces us that some overarching national policy is needed. We have strongly supported legislation to establish such a national policy in the past, such as the attempts in the 96th Congress to revamp the public printing laws in title 44. We have also supported the work of OMB in implementing the broad policy provisions of the Paperwork Reduction Act.

There is a longstanding Government policy in the form of an OMB directive that requires that Government services such as MEDLARS be priced so as to fully recover cost. That policy arises out of statutes enacted by Congress, and is applicable across the board to all Government agencies, including the NLM. I have attached a copy of a letter I recently sent to GAO that analyzes in some detail these legal requirements, as they apply to MEDLARS.

Yet despite these apparently clear legal requirements, the NLM and others do not fully recover costs. Indeed a recent GAO study found that in 1977 only 15 percent of the costs of providing users services were recovered by Federal information centers. The reason that policy and practice differ too sharply is that each agency has a different enabling statute. Many of these statutes contain vague language about the need to disseminate information publicly. The agencies often interpret this language in ways that circumvent other statutory language and OMB directives. I doubt that when Congress created the NLM in 1956 it expected the NLM to aggressively market its information products and services in unfair competition with the private sector through new technologies. Clearly drafted legislation may well be needed to overcome such bureaucratic practices.

In this regard, we would like to work with you and your staff to develop the language of H.R. 4758 in a way that would assure that all the costs associated with the provision of information services to the public are recovered. We believe this would be entirely consistent with the intent of the bill, and would provide clear guidance to the agencies. We believe that the bill should be applicable to descriptive bibliographic data bases. Second, it should more fully define the costs the Government must recover.

Mr. Chairman, I would again like to express my appreciation for the opportunity to testify here today. We stand ready to work with you and the subcommittee staff on this important legislation.

Mr. ENGLISH. Thank you, Mr. Willard. Without objection, we will insert your prepared remarks in the record at this point.

[Mr. Willard's prepared statement follows:]

Testimony on H.R. 4758
Robert S. Willard
Vice President, Government Relations
Information Industry Association

Mr. Chairman, I am Robert S. Willard, Vice President of the Information Industry Association (IIA). The IIA is a trade association comprised of more than 150 companies, with annual revenues in excess of $2.5 billion dollars, and non-profit professional and educational organinzations. These companies and organizations are the entrepreneurs of the information age. Our members are in the business of collecting, organizing, abstracting, indexing, distributing, and otherwise adding value to information. We are vitally concerned with the economics and the public policy that affect information content in the marketplace. A list of our members is attached for your reference.

I am appearing today on behalf of the IIA and its Committee on Government Relations, which for many years has been examining the question of government competition in the information marketplace. The Committee deals with these issues on a broad basis. However, when a specific example of government competition arises, we frequently will establish a temporary task force to focus the energies of the industry on the particular area. Ironically, during the same month in which you are holding these hearings, IIA has created a new task force — on the National Library of Medicine — while another, on the Department of Commerce's Worldwide Information Trade System (WITS), appears to have fulfilled its mandate, after more than three years of steady effort. A number of companies have shown a willingness to participate in the new task force on NLM, which will address policies of unfair competition by the National Library of Medicine. I am accompanied today by Allan Fox and Peggy Miller, attorneys for one of these companies, Excerpta Medica.

At the outset, Mr. Chairman, on behalf of the IIA and its Task Force, I would like to applaud you for the leadership role you have taken in focusing attention on unfair government competition in the area of information services. It has become a cliche — but it is nonetheless true — that we are entering the "Information Age." New information technologies for the collection, organization and dissemination of data are rapidly being developed by the private sector. If the information revolution is to be allowed to reach its fullest potential, then the relationship between the private sector information industry and the government must be clarified now, before government policies further alter or hinder the development of the information marketplace. Thus, Mr. Chairman, we are in full agreement with the objective of H.R. 4758, which you have stated, is "to

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insure that the government does not stifle the development of innovative and competitive information services by private enterprise."

I would first like to spend some time presenting a private sector perspective on the roles of government and the private sector in the information business. Then I will turn to a brief examination of some concrete examples of unfair and unnecessary government competition with the private sector — the Department of Commerce's WITS program and the National Library of Medicine's MEDLARS service. And finally, I will discuss, in response to questions in your letter of invitation, our thoughts on legislation and/or regulation and what actions may be needed to assure that, when the government does provide information services, it does so in a manner that assures fair competition with the private sector.

General Concerns:

The presence of the government in the information marketplace can tend to be very disruptive, leading to a host of problems including price distortion, market entry barriers, and disincentives to innovation. The former Associate Attorney General in the Carter administration, John Shenefield, addressed this subject broadly in a 1979 speech before the National Association of Manufacturers. He described how, in a competitive marketplace, pricing and profits act as "signals" to direct investors and purchasers in the most efficient use of their resources. However, he observed that "the presence of substantial . . . government enterprise in an industry almost always will result in skewing the signals. This is because it has proven exceedingly difficult for politicians and bureaucrats, when the government owns a particular enterprise, not to manipulate the prices charged by such an enterprise for a variety of usually well-meaning purposes."

He continued, "The companion loss which government enterprise typically entails is the loss of the discipline inherent in private, effectively competitive markets. . . .(I)t is a fact of present life that even the most inefficient and wasteful government enterprises will never lose. For such enterprises have access, of course, to sources of capital and day-to-day financial nourishment quite independent of their commercial operations." He then pointed out he was only aware of two government enterprises that had ever been discontinued: manufacturing rum in the Virgin Islands and horse-breeding for the U.S. Cavalry.

Shenefield, however, was addressing all government enterprises, not just information. This thing, information — whether it's a commodity, a resource, a personal right, a utility — and I happen to believe that it is a resource to which all people have a

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right of free, but not necessarily for-free, access — this thing, information has a special role in a government that gives its citizens a responsibility for governing. Obviously, citizens must be informed if they are to govern.

The conflict between the established principle that in a democratic free enterprise system the government should not compete with its citizens, and the government's obligation to see to it that its citizens are informed, is not easily resolved. Despite the difficulty, however, the need for undertaking the task is of paramount importance. It is essential to develop rules of behavior for the government when it enters the marketplace as an information provider. Let me draw for you an admittedly worst-case scenario. I do this not because I have a strong belief that such a scenario will evolve in the near future, but because I believe that a healthy concern about such possible developments is a good defense. Assume a given information product is made available by the government — about energy, or international trade, or medical research, or educational opportunities — and this same type of information is available from one or more private sector sources. Remember John Shenefield's comments on the availability of funds for government enterprises. Suppose the government dips into Uncle Sam's deep pockets and offers its product at an artificially low rate, or even for free. Clearly, in most cases, this would be a signal to the managers of private enterprises to redirect the use of their capital to provide different products which would not have to compete with subsidized products. Therefore, the market would lose privately prepared information on energy, or foreign trade, or medical research, or educational opportunities, or whatever, and the government would become the sole supplier of this body of information.

What's wrong with this?, you might ask. The information is still available, although from only one source — the government. But let me take the scenario a step or two further. Suppose within the body of information for which the government was the only supplier is something the government does not feel should be made available, either for political, or economic, or other, unfathomable reasons. Because there is no alternative source of such information, the government's withholding of certain information results in de facto censorship. I'd be less frightened by this eventuality if I didn't have a Wall Street Journal editorial entitled "The Memory Hole" on my office bulletin board. This item, dated April 4, 1978, recounts an event that reminded the editorialist of George Orwell's 1984 in which "Information offensive to Big Brother was thrown in the memory hole, where it vanished so that history could be more conveniently rewritten." Specifically, the editorial recounts, a Government Printing official wrote to librarians who had received a Department of Energy report that was no longer in favor within the

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Department, and requested that the report "be removed from your shelves and destroyed." Perhaps this was a minor event whose significance should not be drawn too broadly. Nevertheless, I would caution against dismissing it too lightly.

Of more immediate importance, we must keep in mind that the public interest is best served when there are many providers of information, offering that information in a variety of different forms. Competition is the information user's insurance policy. It protects against price exploitation, access controls, unreliable content, limited selection, poor quality service, and lack of innovation. If government policies eliminate or preclude private sector competition, the result will inevitably be a less informed public.

Unfortunately, despite what we believe to be compelling philosophical reasons to carefully restrict the government's role in the information marketplace, many government programs operate instead to restrict the private sector. The IIA has in its files numerous instances of this sort of government activity.

WITS & NLM

As I indicated earlier, our Government Relations Commitee has task forces concerned with the Worldwide Information & Trade System (WITS) and the National Library of Medicine (NLM).

The WITS program no longer exists. At a meeting with IIA members held this week the Department of Commerce announced a new program that they call Automated Information Transfer System (AITS) to replace WITS. This new program, unlike the originally conceived WITS program, appears to be an appropriate automation of existing Foreign Trade activities of the Department of Commerce, whereas the WITS program was a broad-based data collection effort that would have duplicated and competed with many private sector information services. The Department of Commerce has now seen the light and has developed a system that complements rather that competes with the private sector. The WITS experience, however, engaged IIA members for over three years and WITS itself was modified only after the government had spent in excess of seven million dollars on its development. The WITS lesson is that a policy must be developed to rationalize government activity without needlessly expending a great deal of time and money. The WITS solution has not ended problems with government competition.

I would now like to discuss the National Library of Medicine in more detail as an example, since it represents one of the more egregious cases of unfair government competition, and it continues to concern the industry.

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The National Library of Medicine, established in 1956, is a major repository of the world's biomedical literature. We have no quarrel with the traditional library function and believe that NLM performs it in a most commendable manner. However, in addition to this traditional library function, the NLM in the past decade has substantially expanded its operations. It now does far more than simply collect information. It reorganizes and repackages this information, adding value to it, and it markets the information in exactly the same manner as a private commercial operation would. For example, for some time now it has aggressively marketed computerized descriptive indices of biomedical literature in direct and unfair competition with a number of private organizations. Its computerized Medical Literature Analysis and Retrieval System (MEDLARS) provides access to a number of different databases, and is marketed through online access, and through licensing of the database tapes. It aggressively markets the system both here and abroad, having signed up more than 1,530 online domestic users and several foreign governments. In addition to providing direct access to its computers, it also licenses the tapes to a number of foreign governments and private vendors. And it is constantly seeking to upgrade the system and offer new services.

However, there is one critical distinction between MEDLARS and similar private services — MEDLARS is financed mainly through taxpayer subsidies. The NLM charges its users only a minimal fee which is far below its full cost and substantially lower than private enterprise can realistically meet. Unlike private enterprise, for example, the NLM does not include in its fees any historical costs, costs associated with the editorial preparation of its products, including acquisition of the materials indexed, or some of the costs related to the computer systems and personnel necessary to store and retrieve these products. As a result of these subsidies, until very recently the NLM was able to offer MEDLARS service for $8-$15 per online hour; since October, 1981, it has charged $15-$22 per hour, including telecommunications charges. The average price charged for access to similar private sector databases is $73 per online hour, excluding telecommunications charges. I think we can safely assume that this price differential is not due to any greater efficiency on the part of the NLM.

As further evidence of this taxpayer subsidy, I should note that the NLM in 1981 requested an additional appropriation of over $1.3 million to upgrade MEDLARS through the introduction of the MEDLARS III system. MEDLARS III will ultimately cost at least $6,000,000, and will enhance the NLM's ability to provide services now or soon to be available from the private sector. Indeed, the NLM, in its budget justification, refers to MEDLARS III as a high-priority item.

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And who is the beneficiary of this taxpayer subsidy? In many cases, the taxpayer is subsidizing use of MEDLARS by some of this country's largest corporations. I have attached to my testimony a chart showing the top twenty commercial users of MEDLARS, and the extent to which they have been receiving taxpayer subsidies from January, 1980 through June, 1981. I would respectfully suggest to the members of the Committee that, at a time when we are struggling with budget deficits and cutting social programs, these subsidies make no sense. chart A

Even more troublesome than the subsidy the NLM gives domestic corporations is the subsidy it provides to foreign users. The NLM has entered into bilateral agreements with 14 foreign governmental entities, under which it provides online access or gives copies of its database tapes to each foreign entity. In return, instead of paying any fees to the U.S. Treasury, each such recipient provides, or pays someone to provide, indexing services for the NLM.

The NLM's legal authority to enter on its own into these bilateral agreements directly with foreign governments or their agencies is dubious at best. Equally important, however, these bilateral agreements are a particularly bad deal for the U.S. taxpayer. The U.S. Treasury receives absolutely no fees for the use of the MEDLARS system under the bilateral agreements. Yet each foreign government is free to provide to its own domestic users access to MEDLARS at any fee it wishes. For example, last year the British charged $75 per hour, thus making a substantial profit, while the U.S. Treasury received nothing. Conversely, the West Germans made MEDLARS available at $20 per hour, undercutting the private sector's ability to compete.

It is not possible for us to determine the amount of subsidies being provided to foreign users of the MEDLARS system. The NLM denied a Freedom of Information request for this information on the grounds that the identity of foreign users and the number of connect hours used are both trade secret information and national security information. It is interesting to note that the NLM did not consider similar information about domestic users to be trade secret information. Since this Subcommittee's jurisdiction also includes the FOIA, I would respectfully suggest that you may wish to explore the NLM's decision to deny this request with the NLM and HHS.

In your letter inviting me to testify, Chairman English, you asked what the IIA thought the proper role for the government ought to be in the provision of bibliographic database services. We believe that the government should provide only those information services that are not adequately or appropriately provided by the private sector and then

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only after affording the private sector every opportunity to provide the service. Once the private sector inaugurates comparable service, the government should, as a general rule, cease its service. And where the government does compete with the private sector, it should be required to compete under the same rules as everyone else, including full cost recovery.

In the case of MEDLARS, we recognize that some users may have a need for bibliographic biomedical information, but be unable to pay a full-cost recovery rate. Generally, we would support the concept of direct cash subsidies to such users. However, in light of current political and economic realities, it would not be unreasonable to us that the subsidy, in the form of reduced prices, be continued for non-profit institutions, such as universities and hospitals, that have a particular need for health care information. But subsidies to domestic corporations and foreign users, at a time of budgetary constraint, are inexcusable. The private sector is ready and willing to provide the data. Companies and organizations like Excerpta Medica, the Institute for Scientific Information, BIOSIS, Chemical Abstracts Services, and the American Psychological Association provide information products and services in the medical research area. Equally significant are the uncounted companies that may have similar competing products on their drawing boards but whose prudent managers will not commit the product to a marketplace dominated by government-subsidized unfair competition.

What Can the Congress Do?

One final point needs to be made. You have asked whether appropriate changes in policy can be effected through regulation or whether legislation is necessary. Our experience with the NLM, as well as with other agencies, convinces us that some overarching national policy is needed. We have strongly supported legislation to establish such a national policy in the past, such as the attempts in the 96th Congress to revamp the public printing laws in Title 44. We have also supported the work of OMB in implementing the broad policy provisions of the Paperwork Reduction Act.

There is a longstanding government policy in the form of an OMB directive that requires that government services such as MEDLARS be priced so as to fully recover cost. That policy arises out of statutes enacted by Congress, and is applicable across the board to all government agencies, including the NLM. I have attached a copy of a letter (B) I recently sent to GAO that analyzes in some detail these legal requirements, as they apply to MEDLARS.

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Yet despite these apparently clear legal requirements, the NLM and others do not fully recover costs. Indeed a recent GAO study found that in 1977 only 15 percent of the costs of providing user services were recovered by federal information centers. (Better Information Management Policies Needed: A Study of Scientific and Technical Bibliographics Services (1979), p. 25.) The reason that policy and practice differ so sharply is that each agency has a different enabling statute; many of those statutes contain vague language about the need to disseminate information publicly. The agencies often interpret this language in ways that circumvent other statutory language and OMB directives. I doubt that when Congress created the NLM in 1956 it expected the NLM to aggressively market its information products and services in unfair competition with the private sector through new technologies. Clearly drafted legislation may well be needed to overcome such bureaucratic practices.

In this regard, we would like to work with you and your staff to develop the language of H.R. 4758 in a way that would assure that all the costs associated with the provision of information services to the public are recovered. We believe this would be entirely consistent with the intent of the bill, and would provide clear guidance to the agencies. We believe that the bill should be applicable to descriptive bibliographic databases. Second, it should more fully define the costs the government must recover.

Mr. Chairman, I would again like to express my appreciation for the opportunity to testify here today. The IIA and its Government Relations committee stand ready to work with you and the Subcommittee staff on this important legislation.

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February 16, 1982

Mr. William Schechterly
General Accounting Office
Room 1-30, Park Building
12420 Parklawn Drive
Rockville, MD 20857

Dear Mr. Schechterly:

During our meeting with you on February 3, 1982, you said that it would be helpful for us to set forth why we are convinced that the practices of the National Library of Medicine ("NLM") in marketing information products and services below real cost violate the law. We do so in this letter.

As the various private sector participants in our meeting stated, we strongly believe that NLM's practices represent unfair competition with the private sector, and indefensible use of tax dollars to subsidize this unfair competition. In this respect, they constitute bad policy. In addition, they flout the law, and we believe that GAO will not wish to give its stamp of approval to such practices. We are very concerned that NLM's internal accounting procedures are designed to conceal rather than to reflect the real costs of providing the Medlars service. They may well be based on premises which no accountant, tax lawyer or objective layman would countenance. Knowing the comparable private sector costs, we are concerned that NLM is not recovering even a fraction of its real costs in compiling, processing and disseminating the Medlars data. Therefore, NLM is clearly violating the law.

Section 483a of Title 31 of the United States Code plainly states that:

> "(A)ny work, service, publication, report, document, benefit, privilege, authority, use, franchise, license . . . or similar thing of value or utility, performed, furnished, provided, granted, prepared, or issued by any Federal agency . . . shall be self-sustaining to the full extent possible, and the head of each Federal agency is authorized by regulation (which, in the case of agencies in the executive branch shall be as uniform as practicable and subject to such policies as the President may prescribe) to prescribe therfore such fee, charge, or price . . . to be fair and equitable taking into consideration direct and indirect cost to the Government, value to the recipient, public policy or interest served, and other pertinent facts." (Emphasis supplied.)

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The United States Supreme Court has noted that this law was enacted because of congressional concern "that the Government is not receiving full return from many of the services which it renders to special beneficiaries," and has held that the "'value to the recipient' is, we believe, the measure of the authorized fee." National Cable Television Ass'n v. United States, 415 U.S. 336, 337-38, n.1. 342-43 (1974), quoting H.R. Rep. No. 384, 82d Cong., 1st Sess. 2-3. Accord, Federal Power Comm'n v. New England Power Co., 417 U.S. 345 (1974).

Thus, under well-settled statutory law, when the government confers an economic benefit on a commercial entity, it must recover a fee based on the "direct and indirect cost to the government," and the "value to the recipient," in order that the activity be "self-sustaining to the full extent possible." (Emphasis supplied.) The "value to the recipient" means some fee approaching the fair market value of the service. The statutory requirement of full cost recovery has repeatedly been enforced by the courts. See, e.g., Mississippi Power & Light Co. v. United States Nuclear Regulatory Comm'n, 601 F.2d 223 (5th Cir. 1979), cert. denied, 444 U.S. 1102 (1980); Electronic Industries Ass'n v. FCC, 445 F.2d 1109 (D.C. Cir. 1976); National Cable Television Ass'n v. FCC, 554 F.2d 1904 (D.C. Cir. 1976); First National Bank of Milaca v. Smith, 445 F.Supp. 1117 (D. Minn. 1977); Public Service Co. v. Andrus, 443 F.Supp. 144 (D. Colo. 1977). The courts have taken the position that charging a special beneficiary "for the full cost of rendering services to him, even though some incidental public benefit might flow from the service provided . . . comports with the clear legislative intent that agency services be 'self-sustaining to the full extent possible.'" Mississippi Power & Light Co., supra, 601 F.2d at 230. See also Electronic Industries Ass'n, supra, 554 F.2d at 1114 n.12; SDC Development Corp. v. Mathews, 542 F.2d 1116, 1120 (9th Cir. 1976); Diapulse Corp. of America v. FDA, 500 F.2d 73, 78-79 (2d Cir. 1974); Reinohl v. Hershey, 426 F.2d 815, 817 (9th Cir. 1970). Cf. Alumet v. Andrus, 607 F.2d 911 (10th Cir. 1979).

This legal standard is the one to which the Office of Management and Budget has long been committed. To implement Section 483a, the Bureau of the Budget (the precursor to OMB) issued Circular A-25 in 1959. This Circular, which has been updated and is still in effect, states the general policy of the Executive Branch that a reasonable charge "should be made to each identifiable recipient for a measurable unit or amount of Government service of property from which he derives a special benefit." The Circular specifies that the charge should enable the agency "to recover the full cost to the Federal Government of rendering that service" and must include "the direct and indirect costs to the Government of carrying out the activity." This is specifically said to include a fair allocation of items such as "salaries," "research," and "supervisory costs." OMB Circular No. A-25, Paras. 3, 5. (Emphasis supplied.) These are precisely the elements of cost which NLM is not fairly including in what it cites as its "costs" of producing Medlars.

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In its major document governing procurement, OMB has also committed the federal government to the principle that taxpayers' funds should not be used to subsidize unfair government competition with the private sector. As stated in OMB Circular A-76 (March 29, 1979):

> "In a democratic free enterprise economic system, the Government should not compete with its citizens . . . . In recognition of this principle, it has been and continues to be the general policy of the government to rely on competitive private enterprise to supply the products and services it needs." (Para. 2.)*

Just recently, in a September 11, 1981 memorandum to all heads of executive departments and agencies, OMB Director Stockman stressed that "Federal agencies have a responsibility to ensure that Federal information resources are efficiently and effectively managed," by eliminating "instances where the Federal Government is providing information services which are available from the private sector," and instances where "the Government provides information services . . . at less than full cost, thereby impeding the ability of the private sector to provide such services." See also Memorandum of OMB Deputy Director Harper to Heads of Executive Departments and Agencies of April 8, 1981, concerning Implementation of OMB Circular A-76.

Likewise, in its comments on a recent GAO Report, OMB commented that:

> "We agree that the principles of full cost recovery should be applied to federal information services wherever feasible. In a closely related area we are currently developing a full cost policy for Federal data processing activities. Successful implementation of this policy may permit us to extend its principles to other Federal information activities such as bibliographic data bases."

OMB also agreed "that there is unnecessary duplication and overlap among bibliographic data bases," and that there is a need to "reduce the proliferation of dissemination activities," and "assure greater use of cost recovery techniques." OMB concluded that "the suggestion that agency heads should, when requesting funds for a bibliographic data base, certify that those funds will not be used to duplicate an existing service is worth considering." (Comptroller General's Report to Congress, Better Information Management Policies Needed: A Study of Scientific and Technical Bibliographic Services, at 38-40 (PSAD-79-62, August 6, 1979) ("GAO Report").

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* The Department of Health and Human Services, in which NLM is housed, has specifically endorsed this approach in its own General Administration Manual, Chapter 18-10.

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Thus, it is OMB's position, as it is the law, that agencies must recover the "full cost" of services they provide to private parties.The GAO itself has in the past recognized that 31 U.S.C. . 483a and OMB Circulars require full cost recovery. In light of these legal authorites, GAO concluded in 1979:

> "In our opinion private organizations which purchase data bases from the Government and market these services to users should be assessed fair and equitable charges by the Government organization producing the data base." (GAO Report at 29.)

GAO specifically determined that it would be improper for the government to release large quantities of data below cost to a commercial entity because:

> "failure to recover the costs of bibliographic services, whether directly or indirectly supplied, results in a general taxpayer subsidy to non-Government users of these services, and, possibly, to the private concerns which purchase the data base and use them in selling their services to the users." (GAO Report at 27.)

Finally, GAO concluded that in light of "applicable statutes and Court and Comptroller General decisions," each agency must establish a "carefully administered program of cost recovery which will . . . eliminate Government subsidies of information centers competing with the private sector." GAO Report at 31-33.

Therefore, it is not simply a matter of full cost recovery it is a matter of "fair and equitable treatment." The sum and substance of the precedents cited is that the rules governing the process for engaging marketplace forces in fulfilling the legislative mandate of dissemination should be fair and equitable. This means in the NLM case that NLM product and service presence in the marketplace at below cost prices is tantamount to predatory pricing practices calculated to keep others from being able to provide competitive services. The whole effect of such practices in the competitive information marketplace is to deny the health community the benefits of enhanced products and services which flow from robust competition. One cannot look at the health field and see much if any competition. A central objective in this pricing review should be the establishment of pricing practices which encourage rather than stifle full competition in the provision of information services to the health field.

It is in this context that the 1976 decision SDC Development Corp. v. Mathews, 542 F.2d 1116 (9th Cir. 1976), is significant. We originally shared the SDC view that the content on these tapes, in order to be made widely available, should be available under FOIA at cost of duplication. This would have made the content available widely not because of the free cost - but because of the fact that everyone interested in making the content competitively available would do so under the same rules. In a sense we ask you to help

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establish "fair and equitable" rules. In fact the decision reached in the SDC case directs that to be done - the tapes, the court decided were to be made available under the same full cost recovery principles which all government agencies must follow. Based on this decision, GAO has specifically determined that

> "Therefore the (Freedom of Information) act does not apply to requests for dissemination of computer tapes and Government agencies can charge their usual user charges, including the costs of preparing the data base, in addition to the nominal cost of the search and duplication of the first set of tapes." (GAO Report at 35) (Emphasis supplied.)

Thus, as GAO has already found, NLM should charge a fee reflecting the fair share of the cost of compiling, processing, and making available the data base through Medlars. It also should establish fair competitive pricing to enlist the aid of private risk capital in making the content of these files as widely useful as possible. Price is important to use but it is not all important. Equal treatment is needed to extend the benefits of the competitive information marketplace to the health fields.

Before concluding, let me assure you that there is ample precedent for a full-cost recovery pricing system for Medlars. For example, in March, 1980, the National Telecommunications and Information Administration expressed strong opposition to the Federal Reserve System's proposal to expand its check clearing services to include an electronic fund transfers (EFT) service, stating that the proposal raised "substantial economic, social and legal policy issues regarding the proper role, if any, of government in the EFT marketplace." Comments of the NTIA before the Board of Governors of the Federal Reserve System, March 14, 1980, Docket No. R-0262. The NTIA emphasized, however, that "any prices established for (EFT services) should reflect the full-cost of operations" and that such full-cost pricing "would require the Federal Reserve to take account of all of the costs faced by private enterprise, including taxes and return on capital." Subsequently, Congress enacted section 107 of the Depository Institutions Deregulation and Monetary Control Act (the Act). Pub. L. 96-221, 96th Cong., 2d Sess.; 94 Stat. 132, 140; 12 U.S.C. 248(a) (1980).

According to section 107 of the Act, the Federal Reserve System and the Federal Home Loan Bank Board (FHLBB) are required to implement a full-cost pricing system for all services which takes "into account the taxes that would have been paid and the return on capital that would have been provided had the services been furnished by a private business firm."

In enacting section 107, Congress obviously recognized that government cannot compete fairly and equitably with private firms unless it is required to price services as if it were a private firm! Congress' solution to the problem posed by underpricing federal banking services — section 107 — is illuminating and applicable to the problems posed by NLM's pricing practices.

For all of the reasons set forth in this letter, we submit that it is clear that NLM's pricing and marketing practices contravene the law. We urge GAO in its study of NLM to examine carefully, and not to overlook these serious violations of law.

Sincerely,

Robert S. Willard

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COMPANIES THAT USED THE MOST ON-LINE TIME OF ALL DOMESTIC COMMERCIAL CONCERNS ON THE NLM'S COMPUTERIZED MEDLARS INFORMATION SERVICE JANUARY, 1980 THROUGH JUNE, 1981*

User	Total On-Line Hours of Computer Time	Total Fees Charged and Retained by the U.S. Government	Approximate Private Sector Fees for the Same or Similar Services**	Approximate Subsidy Received by Users from U.S. Taxpayers***
1. Merck, Sharp & Dohme	5165.24 hours	$ 62,082.48	$ 413,219.20	$ 351,156.72
2. Upjohn Company	1799.22 hours	$ 23,229.68	$ 143,937.60	$ 120,707.92
3. Burroughs Wellcome Co.	909.39 hours	$ 6,775.81	$ 72,751.20	$ 65,975.39
4. Tracor Jitco, Inc.	872.31 hours	$ 11,270.61	$ 69,784.80	$ 58,505.19
5. Eastman Kodak Co.	495.81 hours	$ 5,533.16	$ 39,646.80	$ 34,115.64
6. American Cyanamid Co.	493.72 hours	$ 5,891.01	$ 39,497.60	$ 33,606.59
7. Pfizer, Inc.	484.30 hours	$ 6,463.17	$ 38,744.00	$ 32,280.83
8. E.I. Dupont De Nemours	452.84 hours	$ 5,626.40	$ 36,227.20	$ 30,600.80
9. Bristol-Myers Co.	427.68 hours	$ 5,202.30	$ 34,212.80	$ 29,010.50
10. Sandoz Pharmaceuticals	417.93 hours	$ 4,333.98	$ 33,434.40	$ 29,100.42
11. Smith, Kline, French Labs	417.34 hours	$ 4,232.91	$ 33,387.20	$ 29,154.29
12. Parke Davis & Co.	405.48 hours	$ 5,171.16	$ 32,436.80	$ 27,265.64
13. ICI U.S., Inc.	371.27 hours	$ 3,377.68	$ 29,701.60	$ 26,323.94
14. Eli Lilly & Co.	356.94 hours	$ 4,091.50	$ 28,555.20	$ 24,463.70
15. Proctor & Gamble Co.	348.82 hours	$ 4,292.53	$ 27,905.60	$ 23,613.07
16. Dow Chemical Co.	335.94 hours	$ 2,870.97	$ 26,875.20	$ 23,995.23
17. Shell Oil Co.	327.80 hours	$ 4,307.72	$ 26,224.00	$ 21,916.28
18. Abbott Labs	293.50 hours	$ 3,921.35	$ 23,480.00	$ 19,558.65
19. Syntex, USA, Inc.	258.93 hours	$ 2,562.09	$ 20,714.40	$ 18,152.31
20. Clement Assoc., Inc.	193.67 hours	$ 2,436.43	$ 15,493.60	$ 13,003.17
TOTAL (January, 1980 - June, 1981)	14,827.89 hours	$173,670.92	$1,186,231.20	$1,012,560.28

* These figures were computed from documents produced by the National Library of Medicine in response to a Freedom of Information Act request.

** These figures were computed at $80 per connect hour, because private sector fees for identical or similar services range from $35 per connect hour to $120 per connect hour.

*** These figures were computed by subtracting the Fees Charged and Retained by the U.S. Government (column 3) from the Approximate Private Sector Fees for the Same or Similar Services (column 4).

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Mr. ENGLISH. Given your testimony, I think it would be fair to say in answer to my first question that you probably do not think that Government agencies should have the unilateral authority to make decisions with regard to this type of service; is that correct?

Mr. WILLARD. That is quite correct; in effect, if you would allow me, I would describe a procedure that was evolving as we were dealing with the Department of Commerce on WITS, and I think it might stand as a good role model for how an agency makes that decision. The procedure essentially consisted of four steps. First of all, early warning. If a Government agency feels that there is an information product or service that is needed and that it has the capability of providing, it ought not to develop that in a black box, and then all of a sudden come out with a fully developed offering. It should make its intentions known far in advance. This allows the private sector to respond and to say whether or not the product or service seems to make sense.

Second, the agency ought to have a requirement to canvass in depth the marketplace to see whether that product is really needed or whether there is already something out there. And, if that results in a decision that it still needs to go ahead and provide this thing, then, once the design for the product is ready, the third point is that it should be reviewed by an independent advisory body that has no stake in either offering the type of information from the private sector or being in the Government and offering it.

And finally, if it has met all these tests and it still seems to be on line and it is a product that is going to be issued, then the fourth thing is some set provisions ought to be built in so that every 2 or 3 years the product be reviewed and compared again with what the private sector is offering. Without that safeguard, the presence of the Government information service effectively chills any further innovation, any opportunity for new products to come along.

Mr. ENGLISH. If the Government were required to price these services on an actual-cost basis, would that satisfy many of your concerns?

Mr. WILLARD. Yes, sir; that is a key point.

Mr. ENGLISH. So you would be happy if that one change were made. Do you think that would substantially change the impact this would have on private businesses and their ability to compete?

Mr. WILLARD. I think coupled with the first step that determines whether or not that service even needs to be offered; but if a determination is made that the service is needed, then full cost would have to be recovered in order for it to compete fairly.

Mr. ENGLISH. What do you think about the idea of a sliding scale type of operation where you have, say, one price for commercial users and another for nonprofit users?

Mr. WILLARD. Ideally, when public policy determines that some group of users should be advantaged, we feel the best way is to give them the direct subsidy so that they can go out into the marketplace and procure the service they need, whether it be from the Government at full cost or from the private sector. As a fall back position from that, we recognize that—politically—direct cash subsidies are not feasible now, so obviously a sliding scale is a second best solution.

Mr. ENGLISH. You say that the Government's role is strictly as an information gatherer and that all the dissemination portion should be left to private enterprise—is that your position?

Mr. WILLARD. Yes, sir.

Mr. ENGLISH. What would you think about the idea that any information that is gathered by the Federal Government that goes into one of these commercial data bases, be sold at an actual price—at actual cost to the Government bases?

Mr. WILLARD. It should be. Yes; the model might be the National Technical Information Service, for example, which maintains a data base of the products it has. It then puts that data base up on a commercial service and even its own use of that information is through the commercial service. It did not bother replicating what was available in the private sector, it just used private-sector capabilities.

Mr. ENGLISH. Well, if the private sector is doing the job and is taking over all of the election and dissemination activities from the U.S. Government in this area, how would you insure that all users have equal access to this information?

Mr. WILLARD. That is a very key point. First of all, I think that it has to be recognized that there is a gradation of information, that there is sort of basic absolutely essential information, how to file your income tax, how to vote, how to apply for benefits. There is also some very specialized information, such as market research studies that someone may need for a particular new product entry, trying to sell a new type of automobile or that sort of thing.

I do not think that there is any philosophical commitment to the proposition fact that everybody should have access to every bit of information that is available, but there do need to be mechanisms to allow the greatest possible access to the greatest collection of information. Obviously, libraries provide a tremendous resource for those who cannot procure information for their own use. Through the collective purchasing power of their communities or their institutions, they are able to provide access to the information. I think, therefore—and let me get in a commercial pitch—I think funding for libraries seems to make a lot more sense during a time of budgetary constraints than funding for Government information services.

I think that there are certainly public mechanisms that can be established to assure the greatest possible access to information.

Mr. ENGLISH. Well, another problem that crops up in that area seems to me to be the fact that private enterprises that are in there to make a profit are going to put forward the kinds of information that are going to be profitable. What happens when you have some information that may be desperately needed but it is just not profitable? You have select groups, small groups of people that utilize it—that need it a great deal. Is there not going to be a tendency to simply ignore that small, select group and have no provider of that type of information?

Mr. WILLARD. Let me respond in two different ways. First of all, we have a fundamental belief in marketplace mechanisms, saying that if something is needed, the marketplace will work and people will request it and will pay for it. But there is the recognition that sometimes a particular body of information may be of value and

the end users cannot afford it. That I would consider to be a marketplace failure, and that may be the appropriate place for the Government to take action, for example, to encourage the private sector to step in, through either tax incentives or through purchase agreements, et cetera.

But there is also a second aspect of this. It often happens with trying to define information marketplaces, determining whether certain products will have low demand and, therefore, the private sector would opt out of that particular field.

I think the reality is that people in the information business are broadly acquisitive. For example, there is an information product that has to do with accumulating just about every publication or document that comes out of the U.S. Congress. Now, many of those, obviously not the documents from this subcommittee, but many of those are less than best sellers.

Mr. ENGLISH. I am shocked.

Mr. WILLARD. Nevertheless, this company, in order to provide a valuable information product, must accumulate all of the publications, must devote labor resources to indexing, and abstracting, and creating a data base that refers to all of those products. So even though part of them may have absolutely no profit potential at all, in order for the service to be offered, the weak products and the strong products are included.

Mr. ENGLISH. Do you think there is an adequate number of firms out there, private-sector firms, that would be interested in providing the different kinds of information that the Government has to disseminate?

Mr. WILLARD. Yes, sir. Very much so. And, in fact, one of the items on our association's agenda this year is to look more carefully at the current economic realities in which we see a diminution of Government funding, we see a problem and an opportunity in that. The problem is that across-the-board cuts in information activity may result in the failure of the Government to collect certain information which only the Government can collect. At the other end of the spectrum, there will be opportunities for private-sector firms to expand their programs, their dissemination programs, using the information that the Government collects, adding value to it, repackaging it, putting it together with other information that the private sector itself collects, and, therefore, providing the marketplace with a much richer assortment of information products than exist currently.

Mr. ENGLISH. Mr Kindness?

Mr. KINDNESS. Thank you, Mr. Chairman. I apologize if I missed something, but if someone were to open the transcript of this hearing at the point at which I returned to the room, I think they might be left with the impression, Mr. Willard, that you had indicated that the function of government, or governmental agencies, might very well be confined to the collection of information, and then there was reference to this area, hypothetical area, of information that might be of value to a limited group with very limited means to pay for it, and I was not clear about whether you were talking about the collection or the dissemination of that information when you addressed yourself to that question.

Would you please clarify that point?

Mr. WILLARD. With regard to the collection, as a general rule, Government funding is obviously a pull between various needs. You, in the Congress, are constantly faced with how do you allocate limited dollars to various needs. So when it comes to collecting information, the Government is faced with the same things. What, of all of the information that it could be collecting, should it be? Those public policies need to be arrived at in some public way. How do you determine whether there will be a census of agriculture? How do you determine whether there will be a mid-decade census?

One of the things we are seeing is the possibility of joint activities where the private sector sees a need for a particular body of information to be collected which the Government has the capability of doing, for example, because of its sovereign power.

Mr. KINDNESS. It has coercive force.

Mr. WILLARD. Yes; in essence, a regulatory body has a lot better chance of collecting information on the industry it regulates than a private-sector information company could.

So, there may be opportunities for the private sector to work with the Government in identifying the kinds of information that the Government may collect. It is ironic though, in some cases, that the Government, in its collection of information, actually goes out and uses private-sector products as its basis for collection. That is essentially what the NLM is doing, it is indexing and abstracting private-sector publications in the biomedical area.

Now, with regard to dissemination: Once the information reposes in the vaults of the Government, what are the mechanisms for getting that out? If there is information that it is felt absolutely essential to get into the hands of users who are not able to pay for it, that is where you have to step in, to say, how are we going to make this available? Our basic position that direct subsidies of some sort, whether it be information stamps, or tax credits, tax deductions, that sort of thing may be a way of doing it. A less preferred alternative is the sliding scale that the chairman referred to of different prices for different communities of users.

Mr. KINDNESS. When you referred to or characterized the absence of availability of specialized body of information as a market failure in your testimony a little earlier, you were referring then, I take it, to the collection and dissemination functions?

Mr. WILLARD. Yes, sir.

Mr. KINDNESS. Altogether. But dependent apparently more upon the collection costs—or the collection aspect, which is likely to be more costly, assuming the existence of some parallel system for dissemination, whether it be in the private sector or the governmental sector, the market failure is likely to occur hypothetically more often with regard to the collection of the information, is that a misunderstanding on my part?

Mr. WILLARD. I would have to think about that further, but I think market failures can take place conceivably along the whole information chain, from collection to organizing to storing to marketing, et cetera.

Mr. KINDNESS. If we were to assume, though, that there was a system available in the private sector to disseminate information such as MEDLARS, let us say, but there is a body of information

not included in that system because there had not been demand for it, you would expect that it could more readily be made a part of MEDLARS and disseminated than taking it up in the private sector somehow through the initiatives that you mentioned such as tax credits or information stamps or what have you? I would assume that that would be an easier way for it to happen, assuming the continued functioning of MEDLARS.

Mr. WILLARD. Well, the market failure might occur, but that is—I guess you would call it a dynamic process, because a marketing operation is not simply saying here is a product, use it. In fact, one of the values that the private information industry affords to users of information is that it is a two-way process, that information products are put out, training is provided to users, interaction is provided to the users, and you begin to identify how is it being helpful to you, what is missing, how can we reshape this product, how can we invest our capital in making it a better product for you and to expand our marketing base.

So, therefore, I think that if, for example, in the case that you cite, if a particular hole existed in the area of biomedical information, that the first way to solve that is by the dynamics of the marketplace, by users getting back to the private-sector vendors and saying, we really could use such and such, but we do not see it. It is only a number of steps down from there where the Government has to step in.

Allan?

Mr. Fox. I would like to just add one thing here. I think I am hearing in the function underlying your question that perhaps the Government, in this case, the National Library of Medicine, covers all the information that apparently exists. Let us assume the private sector, which is currently involved in this market, is getting its head beaten and left the market. The assumption is that the National Library of Medicine currently is providing all of the information that is essential. That is not the case at all.

The National Library of Medicine does not cover many journals which the private sector currently covers. The National Library of Medicine does not disseminate very important information and, in fact, recently, and I have not confirmed this, I recently heard the National Library of Medicine has taken out certain journals from its data base, and if you would like that information, I could try to get it for you or maybe you could get it yourself.

So, the assumption that the Government covers everything is not the case at all.

Mr. KINDNESS. No; that is not my assumption.

Mr. Fox. OK.

Mr. KINDNESS. However, let us take that another step. Suppose that MEDLARS did not exist, and there was a hole in the market. The assertion that that is the place where Government could step in is not nearly so valid at that point, because you do not reinstitute a system all that readily to pick up that hole. And once you have, then, the system reestablished for filling that hole, it is uneconomic, obviously, to just fill the holes with it.

You have a nonpaying economic drag proposition on that point. Right?

Mr. Fox. The products that we are talking about are the most comprehensive collection of information indexed and abstracted biomedical information that you could have. I mean, you are not selling a specific journal, you are not selling a specific article or a specific index. You are selling, say to the scientific or biomedical research community, as much information as you can get to them, so the more information you can get, the better off you are, even though there may be no scientists or biomedical researchers who, for a year, will even go into a certain data base. So, it is the type of product, because of the new technology, it is not really that expensive to keep adding on, and adding on, and incrementally adding on and adding on. And the better the data base, the more scientists will use it, the more competition, the more other companies will be coming in.

I guess I do not see the big holes of the market failures. I do not know where they would even come from in this field. I see the market failure being the National Library of Medicine remaining in this business and the failure will be the private sector leaving this market, and new companies who right now on their drawing boards have new, innovative products for the medical profession throughout the world, will stop and walk away. And the private sector must get a signal, soon, or the investment is going to leave, and the market failure will be that there will be one state owned and operated biomedical research information center worldwide, the National Library of Medicine. That is frightening. That is Socialist, that is like the Soviet system.

Mr. KINDNESS. Thank you. Thank you, Mr. Chairman.

Mr. ENGLISH. Thank you, Mr. Kindness. Mr. Willard, we want to thank you very much for appearing before us. You have been very helpful.

Mr. WILLARD. I would like to thank you for holding these hearings which we consider very important in the development of national information policy.

Mr. ENGLISH. Thank you.

Mr. WILLARD. Thank you, Mr. Chairman.

Mr. ENGLISH. Our next witness is Ms. Lois Granick, who is the director of Psycinfo, the Psychological Abstracts Information Services, representing the American Psychological Association.

It is my understanding that Ms. Granick is accompanied by Clifford Stromberg, who is the counsel for the American Psychological Association. Welcome.

STATEMENT OF LOIS GRANICK, DIRECTOR, PSYCINFO, THE PSYCHOLOGICAL ABSTRACTS INFORMATION SERVICES, REPRESENTING THE AMERICAN PSYCHOLOGICAL ASSOCIATION, ACCOMPANIED BY CLIFFORD STROMBERG, COUNSEL, APA

Ms. GRANICK. Thank you, Mr. Chairman.

Mr. Chairman and members of the subcommittee, I am Lois Granick, representing the American Psychological Association (APA). I am director of the Psychological Abstracts Information Services for the APA. I am accompanied here today by Clifford Stromberg of the law firm of Arnold & Porter, who is legal counsel

to the APA. We appreciate this opportunity to express the APA's views on H.R. 4758.

The proposed legislation begins to address a great and growing problem: the sale by the Government of services which compete with, replace and ultimately stifle those provided by the private sector. As I will suggest, however, the bill should be clarified to cover certain services which are now only ambiguously within its scope.

I would like first to explain how our association became concerned with the problem addressed by this legislation, then to identify broader considerations which the committee should take into account in legislating in this field, and finally, to suggest certain specific changes in the legislation.

The APA is a nonprofit, professional society whose 65,000 members and affiliates include about three-quarters of the Nation's psychologists. The APA provides various services to its members, researchers, and the public. For example, for many years, the APA has comprehensively reviewed the growing literature in the behavioral science field, and prepared abstracts of this literature. We then provide an online, computerized data base of these abstracts, as well as the only integrated set of hard-copy services which exists in the field—including a monthly journal, periodic indexes, a mail-request service, and a thesaurus of terms.

These products are part of APA's service to the profession and the public, and they are provided to institutions and individuals at a modest price. Over the past few years, APA has increased its fees only slowly, despite the rapid pace of inflation. The APA system is widely recognized as the foremost in its field, offering a unique combination of comprehensiveness, quality control, consistency of indexing, and accessible hard-copy sources.

Unfortunately, the APA system has been forced to compete in the marketplace on totally unfair terms with a data base which the National Institute of Mental Health (NIMH) in the Department of Health and Human Services markets through various commercial services. The NIMH data base overlaps with ours by about 50 percent. NIMH uses its general operating budget to prepare the data base—and then turns it over to commercial entities for just the cost of duplicating the computer tapes. Thus, the Government recovers only a fraction of the real costs of abstracting, indexing or organizing the bibliographic data base. Consequently, commercial entities can profitably sell it at a price which undercuts even a nonprofit group such as the APA. If such a practice is permitted to persist, not-for-profit and for-profit producers of data bases will be driven from the market.

In our view, the situation exemplifies several ills which arise when the Government undertakes to sell services which the private sector can well provide:

First, scarce tax revenues, which should be used only to support essential government functions, are instead used to subsidize the distribution of valuable goods to private users, many of whom could easily pay market rates. For example, we understand that heavy users of the NIMH data base include pharmaceutical firms and other companies which could well bear the real costs of the service.

Second, private sector firms cannot compete with tax-subsidized government services, and therefore will be driven from the market or discouraged from entering it. Unique services which can be supplied only by the private sector will be lost. For example, APA provides a unique set of hard-copy research aids, which are available free to the public in many libraries. If APA is crowded out of the market, these services which make research easier, less costly and more accessible, will be denied to the public, and particularly to persons who cannot pay large fees, such as students. Thus, a Government activity which was intended to increase the availability of information may in the end reduce the total amount of information which is available.

Third, the Government may gradually acquire undue control over what information is available. NIMH itself is a major source of funding for research in the mental health field. If NIMH not only decides what research should be funded, but also has a major role in deciding whether the product of the research should be included in the publicly available data base, and how it should be summarized—the Government may well acquire an undue influence over research and the dissemination of ideas in a particular field. In our view, it is vital to preserve the independent sources of information in the private sector.

Fourth, as recent events demonstrate, Federal funding can fluctuate dramatically. NIMH may have to cut back on its data base services for the coming fiscal year, and there may then be gaps or inconsistencies in the data base. This highlights the need for researchers and the public to have access to dependable, private sector sources of information.

Fifth, the information and data processing industry is a growth sector of our economy. It is critical to our research and industrial enterprises that innovation in this field continue. But that innovation will be stifled if the Government is an unabashed—and unfair—competitor at every turn.

The legislation which Chairman English has introduced would address many of these problems. It would properly reaffirm the principle that the Government should not go into business for itself and use its insuperable competitive advantage to supplant the private sector—particularly when the private sector is serving the public's needs well.

However, the proposed legislation could be strengthened by several relatively modest changes:

First, it should apply not only to data processing and telecommunications but also to data base services. Increasingly, the services provided by the Government are hybrids of data, data organization, and telecommunications. It is exceedingly difficult to define where one component of the service ends and another begins. The legislation must deal with all the components if it is to deal effectively with any.

Second, even where an agency provides a service ostensibly pursuant to a specific statutory requirement, the Government should be required to recover the costs of providing the service. Government agencies are often zealous in pursuing their mandates—which they tend to construe broadly. We have been told by NIMH, for example, that its general mandate to foster research in mental

health justifies its practice of marketing its entire bibliographic data base below cost even to commercial users. In our view, such general statutory mandates do not exempt agencies from the laws requiring full cost recovery. However, NIMH takes the position that since the law is unclear, they may continue their practice. H.R. 4758 should clarify the law in this regard.

Third, the bill should require that the Government be reimbursed for the full costs of providing the data processing, data base, or telecommunications services to identifiable users of information. These costs include not only the costs of general overhead, plant and equipment as now provided in the bill, but also the costs of generation and processing of the information provided. Many Government providers of bibliographic data bases such as NIMH and the National Library of Medicine claim that they include their real costs in the minimal fee they charge—while they systematically exclude any of the costs of acquiring, abstracting, or indexing the data which is the purpose and product of the system. This is fanciful accounting, and we have tried to interest the General Accounting Office in looking into such practices. The proposed legislation should make clear that full cost recovery applies to the costs of preparing secondary information, and not simply to the costs of data processing.

Fourth, subsection (4) of the bill should be amended to make clear that agencies' duties to make information available to the public through the Freedom of Information Act or otherwise do not require them to provide major portions of bibliographic data bases below cost, and that agencies should recover their real costs of providing such special services.

Finally, let us address an issue in which the subcommittee has expressed interest—whether legislation is necessary to correct the problems which have been identified. Our answer would be a qualified yes.

In our view, current law properly construed already requires full cost recovery. In 31 U.S.C. 483a, specifically requires that special services which are provided by the Government to identifiable recipients be self-sustaining to the full extent possible. The Supreme Court has noted that this law was enacted because of concern that the Government is not receiving full recovery from many of the services which it renders to special beneficiaries, and has held that the measure of the appropriate fee is the value to the recipient. *National Cable Television Association* v. *United States,* 415 U.S. 336, 337-38 n.1, 342-43 (1974).

Likewise, OMB Circular A-25 provides that when a Government agency provides a special benefit to an identifiable recipient, the agency must recover the full cost to the Federal Government of rendering that service, including the direct and indirect costs. See § 3,5. OMB Circular A-76 confirms that in a democratic free enterprise economic system, the Government should not compete with its citizens. And just recently, in a September 11, 1981, memorandum to agency heads, OMB Director Stockman stressed that Federal agencies should insure that Federal information sources are efficiently and effectively managed, by eliminating instances where the Federal Government is providing information services which are available from the private sector, particularly those in which

services are provided at less than full cost, thereby impeding the ability of the private sector to provide such services.

Similarly, GAO has declared that under the law, private organizations which purchase data bases from the Government and market these services to users should be assessed fair and equitable charges, and that failure to do so results in a general taxpayer subsidy to non-Government users of these services. "Better Information Management Policies Needed: A Study of Scientific and Technical Bibliographic Services," 27-29, 1979.

Finally, the courts have repeatedly recognized that the Freedom of Information Act was intended to permit public access to an agency's processes, actions and decisions, but that it simply does not apply to an entire computerized data base which a commercial entity would simply like to have. See *SDC Development Corp.* v. *Mathews,* 542 F. 2d 1116 (9th Cir. 1976). Cf. *Ryan* v. *Department of Justice,* 617 F.2d 781 (D.C. Cir. 1980); *Warth* v. *Department of Justice,* 595 F. 2d 521 (9th Cir. 1979). Likewise, the Freedom of Information Act does not repeal or nullify agencies' duties to recover costs. See *Diapulse Corp. of America* v. *FDA,* 500 F. 2d 75 (2d Cir. 1974); *Reinoehl* v. *Hershey,* 426 F.2d 815 (9th Cir. 1970).

Therefore, the [Freedom of Information] Act does not apply to requests for dissemination of computer tapes and Government agencies can charge their normal user charges, including the cost of preparing the data base. GAO, "Better Information Management Policies Needed," at 35.

Thus, on paper the statutes and government guidelines require full cost recovery by agencies which vend data base services to commercial users. In practice, however, some agencies such as NIMH have attempted to avoid these legal rules by assuming that their general statutory mandates exempt them, or that the Freedom of Information Act somehow supersedes the law requiring full cost recovery. Because of the wide array of enabling legislation and implementing rules under which agencies function, the duty of such agencies to recover their full costs and to avoid competing with the private sector can only be clarified by overall legislation, such as H.R. 4758. We urge this subcommittee to act favorably on such legislation.

I would like to thank the subcommittee for this opportunity to present APA's views. Mr. Stromberg and I would be pleased to answer any questions the members of the subcommittee may have.

Mr. ENGLISH. Well, you have answered a good number of them in your testimony. I would assume, then, that you do not believe that Government agencies should be able to unilaterally decide to move into these various areas of information services as we are seeing happen, particularly with regard to some of the independent agencies, is that correct?

Ms. GRANICK. That is correct. We do not believe that they should do so.

Mr. ENGLISH. And I believe you also answered my question with regard to this issue of whether or not Government agencies should be required to recover their actual costs in providing any information to the public sector, is that correct?

Ms. GRANICK. Yes; agencies should be required to recover their full costs.

Mr. ENGLISH. Also, I suppose one real question is with regard to the commercial data base vendors who sell large amounts of information and provide these data bases. Of course, they receive this information from the Government. I assume you would agree that in such cases the Government should again require that any costs that they incur be fully recovered.

Ms. GRANICK. Yes, sir. The costs to be recovered should include not only beginning, front-end costs, but the continuing costs of maintaining the data base, and adding materials to it on an annual basis.

Mr. ENGLISH. Now I would like to get into the area of nonprofit organizations. Let us say a university has a hospital facility and uses information that the Government may be providing at cost to other private concerns. Should the information that is provided to the nonprofit concern be charged at a different rate—say, at a much reduced cost? Would you support that idea?

Ms. GRANICK. I will have to answer you only as an individual. As an individual professional in the information business, I would not like to use such labels as nonprofit. I do not think that they are adequately descriptive of anything except tax status, perhaps. I would say that it could be within the province of appropriate, publicly arrived at decisions by the Federal Government that there was some sector of the using public which might need to have information subsidized in some manner.

Mr. STROMBERG. Mr. Chairman, perhaps I can add a comment to that.

Mr. ENGLISH. Sure.

Mr. STROMBERG. You expressed concern earlier about the need for widespread and equitable access to information, and we, of course, subscribe to that idea. It is our view that there may be particular rules considering the public interest, the nonprofit status or purposes of an organization, and other factors, which would under an appropriate statute or regulation justify a different treatment than full-cost recovery. But our position is that as a beginning point, there should be a general rule of full-cost recovery. There may have to be specific regulations which permit exceptions to this rule. For example, in the university context, it may be that the university hospital, such as you suggested, should be entitled to access to information on cancer research or a subject of that kind at a reduced rate.

On the other hand, if the university, as increasingly they do, enters into a consortium with private concerns for the use of research to develop patents and engage in a profitmaking venture, perhaps that venture should not be entitled to the same treatment.

Our point is not to prejudge the precise way in which all of these ethical and social issues should be decided, but rather to say that instead of the chaos that we now have, legislation should establish an overall principle that the Government begin from the premise of full-cost recovery.

Mr. ENGLISH. Very good. Ms. Granick, I want to thank you very much for appearing before us.

Ms. GRANICK. Thank you.

Mr. ENGLISH. Excuse me, Ms. Granick, just a second. Mr. Kindness?

Mr. KINDNESS. I do not have any questions. I appreciate your testimony this morning.

Ms. GRANICK. Thank you.

Mr. ENGLISH. Thank you very much, Ms. Granick. We appreciate it.

Our last two witnesses will come before us as a panel. They are Mr. Herbert Jasper, who is executive vice president of the Ad Hoc Committee for Competitive Telecommunications, and Mr. Michael F. Cavanagh, with Cavanagh Associates.

I want to welcome both of you gentlemen to our hearing this morning.

STATEMENT OF HERBERT N. JASPER, EXECUTIVE VICE PRESIDENT, AD HOC COMMITTEE FOR COMPETITIVE TELECOMMUNICATIONS

Mr. JASPER. Mr. Chairman and members of the subcommittee, we appreciate very much the opportunity to comment on the appropriate role of the U.S. Postal Service (USPS) in the delivery of electronic message services. I prefer not to use the term electronic mail because it conveys, improperly, the impression that what we used to call telegrams have now become mail and, thus, fall within the purview of the Postal Service.

ACCT represents nine large and small intercity communications companies. They provide a wide variety of voice, record, data, and facsimile services in competition with each other, with Western Union, and with A.T. & T.

Several of our companies, especially Graphnet, SBS, and GTE Telenet now provide some form of domestic electronic message service. As a result of recent legislation, we expect to see a very substantial growth in the number of companies offering domestic message services. This should make it even more obvious that there is no need, whatsoever, for a Government agency, also, to enter this historically private market.

America has an unusual division of responsibilities for communications. Unlike most nations, here, the Postal Service controls only the delivery of mail and parcels, while the private sector has responsibility for the transmission of information or messages by electronic means.

The Postal Service has previously sought to gain control over electronic messages. After the invention of the telegraph, the post office briefly operated the line between Washington and Baltimore. In 1845, it proposed that the Government run the whole telegraph system. While the Congress failed to act, in the Post Roads Act of 1866, it authorized the Government to purchase existing telegraph plants after 1871. A number of proposals for electronic message services were, thereafter, made by the post office, but none of these proposals was ever approved.

The Post Office Department did have three other opportunities in electronic communications. It ran the telegraph system during the Civil War. And, in 1918, the Government took control of both the telephone and telegraph systems. But this was terminated when the war ended. The post office also operated a speed mail facsimile service between Washington and Chicago from 1959 to 1961.

Electronic message systems, EMS, can be characterized in three phases, or generations. ECOM is a generation two application which involves electronic input and electronic transmission, but depends on physical delivery of a hard copy.

Mail involves written, printed, or graphic matter, originated in hard copy and physically delivered to the recipient. A stream of electrical impulses does not meet any rational definition of mail.

The Postal Service is facing the possibility of slower growth, or even reductions, in mail volume as a result of new technology, including the telephone, electronic funds transfer, and EMS, as well as alternative forms of delivery. We must all be concerned about the prospect of a shrinking Postal Service, higher rates, and mounting postal deficits, especially when we reflect on the substantial service cutbacks which we have already experienced since the Postal Reorganization Act of 1970. Thus, it is very appealing to consider modernizing the Postal Service and, thereby, improving services, reducing deficits and keeping mailing costs low. It is to achieve such purposes that the USPS is urging upon policymakers a magic potion, which it has successfully mislabelled electronic mail. However, we believe that cooperation with private telecommunications carriers, rather than competition with them, should increase the volume of generation two messages for postal delivery and prolong the period during which such service is significant.

In 1978, the Postal Service proposed a joint venture with Western Union, to be called electronic computer-originated mail, or ECOM, in which the Postal Service would have become a resale carrier using lines leased from Western Union.

In August of 1980, the Board of Governors finally approved the PRC's recommended ECOM decision providing, among other things, that the Postal Service would interconnect its physical delivery service at 25 serving post offices with the electronic transmission services of cooperating private companies. It would not, itself, offer transmission services unless there was a demonstrated need. The Governors protested the experimental limit on the offering. The Postal Service successfully contested that limitation before the D.C. Circuit Court of Appeals, which remanded the entire matter to the PRC.

We think it is most regrettable that the USPS refused to participate in the expedited proceedings announced by the PRC to reconsider the authorization of ECOM upon remand. Thumbing its nose at the agency established by Congress to assure an independent review of its actions raises serious questions as to the autonomy granted the Postal Service and its Board of Governors in the 1970 reorganization. The flouting of the PRC's role by the Postal Service is, we think, a flagrant violation of both the letter and the spirit of the 1970 law. Accordingly, we expect that the court of appeals will rule favorably on the protest by the Department of Justice, joined by two of our companies, that the ECOM service inaugurated on January 4 is unlawful.

In terms of impact on the Postal Service, we should emphasize the very substantial growth in EFT and in the use of automatic teller machines [ATM] as well as telephone bill paying. We believe the Postal Service has unwisely focused inordinate attention on the rather modest impact of EMS and has consumed resources waste-

fully in an ill-fated struggle to get a piece of that action. We find it surprising that Postmaster General Bolger, in a January 1, 1982, Washington Post article, used EFT as an example of a threat to the Postal Service which had not materialized. He noted with evident satisfaction that, "* * * bankers now report that while electronic fund transfers have grown and will continue to grow, more checks are written today than ever before." What he failed to note is that the rate of growth in checks has slowed and that a sharp decline in the number of checks has been predicted after 1985.

There is one major aspect of diversion of mail which has not received sufficient attention. That is the increasing use of the telephone for communications which might otherwise be handled by letter. Telephone's share of the communications industry had grown from 64.9 percent of the total market in 1945 to about 81 percent in 1980. The postal share of total message traffic is likely to decline to 17 percent by 1990 if this trend continues, as appears very likely.

We are awaiting with some anxiety the possibility that the Postal Service will determine that it must meet this threat to its viability by entering into competition for what it might call voice mail. Such a move could be based on the same sort of analysis as that which the Postal Service has used in justification of its interest in offering so-called electronic mail:

Telephone calls are siphoning business away from the regular mail system and threatening the fiscal stability of the Postal Service. Since the Postal Service is vital to all Americans, it must be allowed to continue to serve its existing customers with such new forms of communication as voice mail.

Since there is no assurance that the Postal Service will forgo claims that its future is inextricably tied to its ability to enter into the voice mail business, congressional guidance may be required. Indeed, guidance may not be enough. Postmaster General Bolger has repeatedly promised that the Postal Service would not enter the EMS business without a clear expression of approval from both the administration and the Congress. Yet, he has received no such approval from the Congress and he has ignored the vehement opposition of the Departments of Justice and Commerce.

Mr. Bolger, and other officials of the Postal Service, have also repeatedly assured the Congress and others that there would be no cross-subsidy whatsoever of its entry into the ECOM business. In other words, ECOM would be completely cost-compensatory.

Indeed, they have solemnly stated that such cross-subsidization would be unlawful. So we were dismayed to discover that Postal Service officials have quite casually admitted that the ECOM system is not thought to be capable of recovering its costs at present rates.

Mr. Finch, who presented Mr. Bolger's statement before your subcommittee in October 1981, testified that ECOM would apparently not cover its costs. In answer to your question, Mr. Chairman, relating to the increase in rates needed to cover costs, he said, "I think commonsense would say it would be a substantial increase."

General Counsel Cox, in answer to a question at the Governors' meeting in January 1981, about the legal obligation to assure that

the rate for ECOM would cover its costs, observed that they could, "* * * push pretty optimistically toward a fairly far out horizon * * * saying, 'Gee, it might pan out 3 or 4 years from now and * * * we don't [have] to take the initiative to adjust the rate.'"

These views are all the more shocking when you consider that the PRC approved the rates for an ECOM system on the basis of a capital expenditure of $7.4 million, but that the Postal Service has spent an estimated $38.6 million to put the system into effect. That underscores why we have continually expressed such concern about the possibility of cross-subsidy, if the Postal Service is a so-called competitor in the electronic message service business.

It is also a matter for congressional concern that the ECOM system is substantially different from that actually approved by the PRC. After his recent testimony here, Mr. Finch submitted for the record a statement that:

"It is very difficult to compare the economic differences between our system and that of the PRC, since there are conceptual differences in system design."

The Postal Service has, for 12 years, participated in a sweetheart deal with Western Union, under which Western Union maintains Mailgram as a monopoly service. Mailgram is a next-day delivery service which has more appeal than the 2-day delivery promised under ECOM. Our inquiries about the possibility of entering into Mailgram-like agreements with the Postal Service have been rebuffed and Mr. Bolger told your subcommittee that this would be impractical. The Postal Service must be made to recognize that it has an obligation as a public agency to hold out its services on a nondiscriminatory basis to all interested communications companies.

In similar cases of discrimination by A.T. & T., our companies have sought redress from the FCC. But this matter is not within the purview either of the FCC or of the PRC.

I should like to conclude by briefly answering, in the light of my previous remarks, the three questions posed in your letter of invitation to testify.

One, is legislation needed? Yes. In view of the Postal Service's ill-advised ventures and apparently unlawful behavior, legislation along the lines of H.R. 4758 should be promptly enacted. The USPS must not be permitted to distort the broad language of the Postal Reorganization Act to justify reversal of a national policy of more than 100 years' standing on private sector telegraphy.

Two, are existing regulatory structures adequate? No. The PRC's authority is wholly inadequate to deal with a runaway USPS. And the Board of Governors appears to function largely as a rubber-stamp for postal management. Finally, the FCC, because of its deregulation of resale services, is not likely to be able to restrain the USPS.

Three, is the oversight process adequate? No. The USPS has ignored the views of senior members of the Commerce Committees on EMS. For that and other reasons, the Congress should revise the 1970 legislation to reestablish its authority over the Postal Service.

Thank you very much. I would be happy to answer any questions.

Mr. ENGLISH. Thank you, Mr. Jasper. Without objection, we will insert your prepared remarks in the record at this point.

[Mr. Jasper's prepared statement follows:]

TESTIMONY BY HERBERT N. JASPER

EXECUTIVE VICE PRESIDENT
AD HOC COMMITTEE FOR COMPETITIVE TELECOMMUNICATIONS (ACCT)

BEFORE THE
SUBCOMMITTEE ON GOVERNMENT INFORMATION AND INDIVIDUAL RIGHTS
OF THE HOUSE COMMITTEE ON GOVERNMENT OPERATIONS

IS THE U.S. POSTAL SERVICE OUT OF CONTROL?

FEBRUARY 25, 1982

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE, WE APPRECIATE VERY MUCH THE OPPORTUNITY TO COMMENT ON THE APPROPRIATE ROLE OF THE U.S. POSTAL SERVICE IN THE DELIVERY OF ELECTRONIC MESSAGE SERVICES. I PREFER NOT TO USE THE TERM "ELECTRONIC MAIL" BECAUSE IT CONVEYS, IMPROPERLY, THE IMPRESSION THAT WHAT WE USED TO CALL TELEGRAMS HAVE NOW BECOME "MAIL" AND, THUS, FALL WITHIN THE PURVIEW OF THE POSTAL SERVICE.

ACCT COMPANIES

ACCT IS AN ASSOCIATION REPRESENTING NINE LARGE AND SMALL INTERCITY COMMUNICATIONS COMPANIES. THEY PROVIDE A WIDE VARIETY OF VOICE, RECORD, DATA AND FACSIMILE SERVICES IN COMPETITION WITH EACH OTHER, WITH WESTERN UNION, AND WITH THE LONG LINES DEPARTMENT OF AT&T.

SEVERAL OF OUR COMPANIES, ESPECIALLY GRAPHNET, SBS, AND GTE TELENET, AS WELL AS CORPORATE AFFILIATES OF SEVERAL OF OUR MEMBERS, NOW PROVIDE OR PLAN TO PROVIDE SOME FORM OF DOMESTIC ELECTRONIC MESSAGE SERVICE. WITH THE RECENT PASSAGE BY THE CONGRESS OF LEGISLATION TO REPEAL SECTION 222 OF THE COMMUNICATIONS ACT, THUS PERMITTING WESTERN UNION TO RE-ENTER THE INTERNATIONAL RECORD MARKET AND FACILITATING THE ENTRY OF THE INTERNATIONAL RECORD CARRIERS INTO

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THE DOMESTIC RECORD MARKET, WE EXPECT TO SEE A VERY SUBSTANTIAL GROWTH IN THE NUMBER OF COMPANIES OFFERING DOMESTIC MESSAGE SERVICES. THIS SHOULD MAKE IT EVEN MORE OBVIOUS THAT THERE IS NO NEED, WHATSOEVER, FOR A GOVERNMENT AGENCY, ALSO, TO ENTER THIS HISTORICALLY-PRIVATE MARKET.

A BIT OF HISTORY

AMERICAN HISTORY PROVIDES FOR AN UNUSUAL DIVISION OF RESPONSIBILITIES FOR COMMUNICATIONS. UNLIKE MOST NATIONS, HERE THE POSTAL SERVICE CONTROLS ONLY THE PHYSICAL DELIVERY OF MAIL WHILE THE PRIVATE SECTOR HAS RESPONSIBILITY FOR THE TRANSMISSION OF INFORMATION OR MESSAGES BY ELECTRONIC MEANS.

THE POSTAL SERVICE HAS PREVIOUSLY SOUGHT TO GAIN CONTROL OVER ELECTRONIC MESSAGES. AFTER THE INVENTION OF THE TELEGRAPH, THE POST OFFICE OPERATED THE LINE BETWEEN WASHINGTON AND BALTIMORE FROM 1843-1847. IT PROPOSED, IN 1845, THAT THE GOVERNMENT RUN THE TELEGRAPH SYSTEM. WHILE THE CONGRESS FAILED TO ACT, IT INCLUDED A PROVISION IN THE TELEGRAPH LEGISLATION OF 1866 (THE POST ROADS ACT) WHICH AUTHORIZED THE GOVERNMENT TO PURCHASE EXISTING TELEGRAPH PLANTS AFTER 1871. A NUMBER OF PROPOSALS FOR ELECTRONIC MESSAGE SERVICES WERE, THEREAFTER, MADE BY THE POST OFFICE, BUT NONE OF THESE PROPOSALS WAS APPROVED. WESTERN UNION PROVIDED THE PRINCIPAL OPPOSITION. FINALLY, IN 1947, CONGRESS REPEALED THE POST ROADS ACT.

THE POST OFFICE DEPARTMENT DID HAVE TWO OTHER OPPORTUNITIES IN ELECTRONIC COMMUNICATIONS. IN 1918, THE GOVERNMENT TOOK CONTROL OF THE TELEPHONE AND TELEGRAPH SYSTEMS. BUT THIS WAS TERMINATED WHEN THE WAR ENDED. IT ALSO OPERATED A "SPEED MAIL" FACSIMILE SERVICE BETWEEN WASHINGTON AND CHICAGO FROM 1959 TO 1961.

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WHAT IS EMS?

Electronic Message Systems (EMS) can be characterized in three phases, or "generations" (although their characteristics are not mutually exclusive). The first phase (Generation I) involves physical handling of input and output with some form of electronic transmission in between. The second phase (Generation II) involves electronic input and electronic transmission, but depends on physical delivery of a "hard copy". The third phase (Generation III) is a completely electronic form, in which hard copy may also be produced, depending upon the circumstances. On the other hand, mail involves written, printed or graphic matter, originated in hard copy and physically delivered to the recipient. A stream of electrical impulses does not meet any rational definition of "mail".

WHY IS THE USPS INTERESTED IN EMS?

For many years, the U.S. Post Office Department, which was charged with supplying universal mail service, operated at a large deficit. The Postal Reorganization Act of 1970 created, in its place, the U.S. Postal Service (USPS) -- a government corporation. It was the intention of Congress to make the Service, eventually, self-supporting. The Postal Service has recently experienced at least one "profitable" year; that is, if we count the public service and revenue-foregone appropriations as receipts. Under this year's budget constraints, these appropriations have been reduced. Moreover, the Postal Service is facing the possibility of slower growth, or even reductions, in mail volume as a result of "new" technology,

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INCLUDING TELEPHONE, ELECTRONIC FUNDS TRANSFER (EFT) AND EMS, AS WELL AS ALTERNATIVE FORMS OF DELIVERY.

AS CITIZENS, CONSUMERS AND TAXPAYERS, WE MUST ALL BE CONCERNED ABOUT THE PROSPECT OF A SHRINKING POSTAL SERVICE, HIGHER RATES, AND MOUNTING POSTAL DEFICITS, ESPECIALLY WHEN WE REFLECT ON THE SUBSTANTIAL SERVICE CUT-BACKS WHICH WE HAVE ALREADY EXPERIENCED SINCE THE POSTAL REORGANIZATION. THUS, IT IS VERY APPEALING TO CONSIDER "MODERNIZING" THE POSTAL SERVICE AND, THEREBY, IMPROVING SERVICES, REDUCING DEFICITS AND KEEPING MAILING COSTS LOW. IT IS IN THAT CLIMATE THAT THE USPS IS URGING UPON POLICY MAKERS A "MAGIC POTION", WHICH IT HAS SUCCESSFULLY MISLABELLED "ELECTRONIC MAIL". HOWEVER, WE BELIEVE THAT COOPERATION WITH PRIVATE TELECOMMUNICATIONS CARRIERS, RATHER THAN COMPETITION WITH THEM, SHOULD INCREASE THE VOLUME OF GENERATION II MESSAGES FOR POSTAL DELIVERY AND PROLONG THE PERIOD DURING WHICH SUCH SERVICE IS SIGNIFICANT.

IN 1978, THE POSTAL SERVICE PROPOSED A JOINT VENTURE WITH WESTERN UNION, TO BE CALLED ELECTRONIC COMPUTER-ORIGINATED MAIL, OR ECOM. IT WOULD HAVE REVERSED THE ROLES OF THE TWO PARTIES UNDER THE MAILGRAM SERVICE, WHICH BEGAN IN 1970. THERE WERE NUMEROUS OBJECTIONS FROM PRIVATE FIRMS, WHICH ARGUED THAT THE POSTAL SERVICE SHOULD "PARTICIPATE" IN EMS BY COOPERATION WITH PRIVATE COMPANIES. THUS, 'IT SHOULD STICK TO DELIVERING MAIL, INCLUDING HARD COPIES OF THE PRIVATE FIRMS' ELECTRONIC MESSAGES. THE POSTAL RATE COMMISSION (PRC) RECOMMENDED A SUBSTANTIALLY REVISED SYSTEM. OUR COMPANIES STRONGLY URGED THE USPS BOARD OF GOVERNORS TO ACCEPT THE PRC'S OPINION AND RECOMMENDED DECISION, WHICH BASICALLY FOLLOWED THE MAILGRAM MODEL.

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In August of 1980, the Governors finally approved the PRC's recommended decision providing, among other things, that the Postal Service would interconnect its physical delivery service at 25 Serving Post Offices with the electronic transmission services of cooperating private companies. It would not, itself, offer transmission services unless there was a "demonstrated need" (and, if so, only by resale). The Governors protested the "experimental" limit on the offering. The Postal Service successfully contested that limitation before the D.C. Circuit Court of Appeals, which remanded "the entire matter" to the PRC.

AGENCY OUT OF CONTROL?

We think it is most regrettable that the USPS refused to participate in the expedited proceedings announced by the PRC to reconsider the authorization of ECOM upon remand by the Court of Appeals. Its refusal to participate raises serious questions as to the autonomy granted the Postal Service and its Board of Governors in the Postal Reorganization Act of 1970. That Act gave the PRC extremely limited powers, and provided authority to the Governors to override its recommendations, by unanimous vote. Thus, the flaunting of the PRC's role by the Postal Service is, we think, a flagrant violation of both the letter and the spirit of the 1970 law. Accordingly, we expect that the Court of Appeals will rule favorably on the protest by the Department of Justice (joined by two of our companies) that the ECOM service inaugurated on January 4, is unlawful.

In terms of impact on the Postal Service, we should emphasize the very substantial growth in EFT and in the use of Automatic

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TELLER MACHINES (ATM), AS WELL AS TELEPHONE BILL-PAYING. WE BELIEVE THE POSTAL SERVICE HAS UNWISELY FOCUSED INORDINATE ATTENTION ON THE RATHER MODEST IMPACT OF EMS AND HAS CONSUMED RESOURCES WASTEFULLY IN AN ILL-FATED STRUGGLE TO GET "A PIECE OF THAT ACTION". WE FIND IT SURPRISING THAT POSTMASTER GENERAL BOLGER, IN A JANUARY 1, 1982 ARTICLE IN THE WASHINGTON POST, USED EFT AS AN EXAMPLE OF A THREAT TO THE POSTAL SERVICE WHICH HAD NOT MATERIALIZED. HE NOTED WITH EVIDENT SATISFACTION THAT:

> "...BANKERS NOW REPORT THAT WHILE ELECTRONIC FUND TRANSFERS HAVE GROWN AND WILL CONTINUE TO GROW, MORE CHECKS ARE WRITTEN TODAY THAN EVER BEFORE."

VOICE MAIL

THERE IS ONE MAJOR ASPECT OF DIVERSION OF MAIL WHICH HAS NOT RECEIVED SUFFICIENT ATTENTION. THAT IS THE INCREASING USE OF THE TELEPHONE FOR COMMUNICATIONS WHICH MIGHT OTHERWISE BE HANDLED BY LETTER. ACCORDING TO A 1977 COMMERCE DEPARTMENT STUDY, TELEPHONE'S SHARE OF THE COMMUNICATIONS INDUSTRY HAD GROWN FROM 64.9% OF THE TOTAL MARKET IN 1945 TO ABOUT 80% IN 1973. WE HAVE INCLUDED THE RELEVANT DATA FOR 1975 AND 1980 IN THE TABLE, BELOW. IT SHOWS THE PERCENTAGE OF MARKET SHARE FOR FIRST CLASS MAIL, TELEPHONE, AND TELEGRAPH FROM 1945 TO 1980 AT FIVE YEAR INTERVALS.

MARKET SHARES WITHIN COMMUNICATIONS INDUSTRY

MESSAGES
(PERCENT)

	POSTAL (1ST CLASS)	TELEPHONE	TELEGRAPH
1945	34.7	64.9	0.2
1950	28.9	70.9	0.2
1955	27.9	71.9	0.1
1960	24.9	75.0	0.1
1965	22.8	77.1	0.1
1970	22.1	77.8	0.0)
1975	20.2	79.8	0.0) LESS THAN
1980	19.1	80.9	0.0) 0.1

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THE DATA SHOW THAT THE POSTAL SHARE OF THE TOTAL MESSAGE MARKET DECLINED TO 20.2% IN 1975 AND TO 19.1% IN 1980. DURING THE YEARS FROM 1973 TO 1981, FIRST CLASS MAIL VOLUME INCREASED BY 20.4% WHILE TELEPHONE VOLUME INCREASED BY 42.1%. MR. BOLGER HAS REFERRED TO THE UNUSUAL DECLINE IN MAIL VOLUME IN 1975, WHEN FIRST CLASS MAIL ACTUALLY DECLINED FROM 51.6 BILLION MESSAGES TO 51.4 BILLION. HE POINTED OUT THAT THIS WAS A RESULT OF A RECESSION. HOWEVER, IT IS INTERESTING TO NOTE THAT, DURING THE SAME RECESSION YEAR, TELEPHONE TRAFFIC INCREASED FROM 198 BILLION MESSAGES TO 203.1 BILLION MESSAGES. THE POSTAL SHARE OF TOTAL MESSAGE TRAFFIC IS LIKELY TO DECLINE TO 17% BY 1990 IF THIS TREND CONTINUES, AS APPEARS VERY LIKELY.

WE ARE AWAITING WITH SOME ANXIETY THE POSSIBILITY THAT THE POSTAL SERVICE WILL DETERMINE THAT IT MUST MEET THIS THREAT TO ITS VIABILITY BY ENTERING INTO COMPETITION FOR WHAT IT MIGHT CALL "VOICE MAIL". SUCH A MOVE COULD BE BASED ON THE SAME SORT OF ANALYSIS AS THAT WHICH THE POSTAL SERVICE HAS USED IN JUSTIFICATION OF ITS INTEREST IN OFFERING "ELECTRONIC MAIL":

> "TELEPHONE CALLS ARE SIPHONING BUSINESS AWAY FROM THE REGULAR MAIL STREAM AND THREATENING THE FISCAL STABILITY OF THE POSTAL SERVICE. SINCE THE POSTAL SERVICE IS VITAL TO ALL AMERICANS, IT MUST BE ALLOWED TO CONTINUE TO SERVE ITS EXISTING CUSTOMERS WITH SUCH NEW FORMS OF COMMUNICATION AS VOICE MAIL."

LEST YOU THINK THIS IS ENTIRELY FANCIFUL, THE PROGRAM AT A RECENT TELECOMMUNICATIONS CONFERENCE INCLUDED SEVERAL SESSIONS ON "VOICE MAIL". BUT, SINCE THERE IS NO ASSURANCE THAT THE POSTAL SERVICE WILL FOREGO CLAIMS THAT ITS FUTURE IS INEXTRICABLY TIED TO ITS ABILITY TO ENTER INTO THE VOICE MAIL BUSINESS, CONGRESSIONAL GUIDANCE MAY BE REQUIRED. INDEED, "GUIDANCE" MAY NOT BE ENOUGH.

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POSTMASTER GENERAL BOLGER HAS REPEATEDLY PROMISED THAT THE POSTAL SERVICE, WOULD NOT ENTER THE EMS BUSINESS WITHOUT A CLEAR EXPRESSION OF APPROVAL FROM BOTH THE ADMINISTRATION AND THE CONGRESS. YET, HE HAS RECEIVED NO SUCH APPROVAL FROM THE CONGRESS AND HE HAS IGNORED THE VEHEMENT OPPOSITION OF THE DEPARTMENTS OF JUSTICE AND COMMERCE.

LACK OF USPS ACCOUNTABILITY

POSTMASTER GENERAL BOLGER, AND OTHER OFFICIALS OF THE POSTAL SERVICE HAVE ALSO REPEATEDLY ASSURED CONGRESSIONAL COMMITTEES, ELECTRONIC COMMUNICATIONS COMPANIES, AND OTHERS THAT THERE WOULD BE NO CROSS-SUBSIDY, WHATSOEVER, OF ITS ENTRY INTO THE ECOM BUSINESS. IN OTHER WORDS, ECOM WOULD BE COMPLETELY COST-COMPENSATORY.

INDEED, THEY HAVE SOLEMNLY ADVISED US ALL THAT SUCH CROSS-SUBSIDIZATION WOULD BE UNLAWFUL. SO WE WERE DISMAYED TO DISCOVER THAT POSTAL SERVICE OFFICIALS HAVE QUITE CASUALLY ADMITTED THAT THE ECOM SYSTEM WHICH WAS LAUNCHED ON JANUARY 4TH IS NOT THOUGHT TO BE CAPABLE OF RECOVERING ITS COSTS. SENIOR ASSISTANT POSTMASTER GENERAL FINCH, WHO PRESENTED MR. BOLGER'S STATEMENT BEFORE YOUR SUBCOMMITTEE ON OCTOBER 5, 1981, TESTIFIED THAT ECOM WAS, APPARENTLY NOT COVERING ITS COSTS. IN ANSWER TO A QUESTION FROM THE CHAIRMAN RELATING TO THE INCREASE IN RATES NEEDED TO COVER COSTS, HE SAID:

> "I THINK COMMON SENSE WOULD SAY IT WOULD BE A SUBSTANTIAL INCREASE."

USPS GENERAL COUNSEL LOUIS COX, IN ANSWER TO A QUESTION AT THE BOARD OF GOVERNORS MEETING ON JANUARY 9, 1981 ABOUT THE LEGAL OBLIGATION TO ASSURE THAT THE 26¢ RATE FOR ECOM WOULD COVER ITS COSTS,

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STATED:

> "...IT SEEMS TO ME THAT GIVEN THE UNAVOIDABLE UNKNOWNS OF THIS, GIVEN THE FACT THAT IT IS A NEW SERVICE, THAT YOU CAN PUSH PRETTY OPTIMISTICALLY TOWARD A FAIRLY FAR-OUT HORIZON, MAKING THAT AN ESTIMATE, SAYING, 'GEE, IT MIGHT PAN OUT THREE OR FOUR YEARS FROM NOW AND WITH THAT IN MIND, WE DON'T THINK WE ARE UNDER ANY OBLIGATION TO TAKE THE INITIATIVE TO ADJUST THE RATE.' NOW SOMEBODY ELSE MAY WISH TO TAKE THAT INITIATIVE. WE DON'T HAVE TO."

THESE VIEWS ARE ALL THE MORE SHOCKING WHEN YOU CONSIDER THAT THE PRC APPROVED THE RATES FOR AN ECOM SYSTEM ON THE BASIS OF A CAPITAL EXPENDITURE OF $7.4 MILLION BUT THAT THE POSTAL SERVICE HAS SPENT AN ESTIMATED $38.6 MILLION TO PUT THE SYSTEM INTO EFFECT. THAT UNDERSCORES WHY WE HAVE CONTINUALLY EXPRESSED SUCH CONCERN ABOUT THE POSSIBILITY OF CROSS-SUBSIDY, INCIDENT TO THE ENTRY OF THE POSTAL SERVICE AS A "COMPETITOR" IN THE ELECTRONIC MESSAGE SERVICE BUSINESS.

IT IS, I THINK, ALSO A MATTER FOR CONGRESSIONAL ATTENTION THAT THE ECOM SYSTEM IS, ACCORDING TO MATERIAL FILED WITH THIS SUBCOMMITTEE BY THE POSTAL SERVICE, SUBSTANTIALLY DIFFERENT FROM THAT ACTUALLY APPROVED BY THE PRC. AFTER HIS OCTOBER 5, 1981 TESTIMONY HERE, MR. FINCH SUBMITTED CERTAIN INFORMATION FOR THE RECORD. THAT MATERIAL INCLUDES THE STATEMENT THAT:

> "IT IS VERY DIFFICULT TO COMPARE THE ECONOMIC DIFFERENCES BETWEEN OUR SYSTEM AND THAT OF THE PRC, SINCE THERE ARE CONCEPTUAL DIFFERENCES IN SYSTEM DESIGN." (EMPHASIS ADDED.)

USPS REFUSAL TO SERVE COMPANIES EQUALLY

THE POSTAL SERVICE HAS, FOR TWELVE YEARS, PARTICIPATED IN A "SWEETHEART DEAL" WITH WESTERN UNION, UNDER WHICH WU MAINTAINS MAILGRAM AS A MONOPOLY SERVICE. IT IS HIGH TIME THAT OTHER COMPANIES

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ARE INVITED TO ENTER INTO EQUIVALENT ARRANGEMENTS WITH THE POSTAL SERVICE. WE NOTE THAT MAILGRAM IS A NEXT-DAY DELIVERY SERVICE WHICH WE THINK HAS MORE APPEAL THAN THE TWO-DAY DELIVERY PROMISED UNDER ECOM. TO THIS DATE, OUR INQUIRIES ABOUT THE POSSIBILITY OF ENTERING INTO MAILGRAM-LIKE AGREEMENTS WITH THE POSTAL SERVICE HAVE BEEN REBUFFED. NOW IS THE TIME FOR THE POSTAL SERVICE TO BE FORCED TO RECOGNIZE THAT IT HAS AN OBLIGATION AS A PUBLIC AGENCY TO HOLD OUT ITS SERVICES ON A NONDISCRIMINATORY BASIS TO ALL INTERESTED COMMUNICATIONS COMPANIES.

IN SIMILAR CASES OF DISCRIMINATION BY AT&T, OUR COMPANIES HAVE SOUGHT REDRESS FROM THE FEDERAL COMMUNICATIONS COMMISSION (FCC). BUT THIS MATTER IS NOT WITHIN THE PURVIEW OF THE FCC OR OF THE PRC.

CONCLUSION

I SHOULD LIKE TO CONCLUDE BY BRIEFLY ANSWERING, IN THE LIGHT OF MY PREVIOUS REMARKS, THE THREE QUESTIONS POSED IN YOUR LETTER OF INVITATION TO TESTIFY:

1. SHOULD WE LEGISLATE TO RESTRICT GOVERNMENT AGENCY ACTIVITY?
   YES. IN VIEW OF THE POSTAL SERVICE'S APPARENTLY UNLAWFUL BEHAVIOR, LEGISLATION ALONG THE LINES OF H.R. 4758 SHOULD BE PROMPTLY ENACTED. THE USPS MUST NOT BE PERMITTED TO INTERPRET THE BROAD LANGUAGE OF THE POSTAL REORGANIZATION ACT SO AS TO JUSTIFY REVERSAL OF A NATIONAL POLICY OF MORE-THAN-100 YEARS' STANDING ON PRIVATE SECTOR TELEGRAPHY.
2. CAN WE RELY ON EXISTING REGULATORY STRUCTURES, WITH A LITTLE PRODDING FROM THE CONGRESS?
   NO. THE PRC'S AUTHORITY IS WHOLLY INADEQUATE TO DEAL WITH

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A RUNAWAY-USPS. AND THE POSTAL BOARD OF GOVERNORS APPEARS TO FUNCTION LARGELY AS A RUBBER-STAMP FOR POSTAL MANAGEMENT. FINALLY, THE FCC, BECAUSE OF ITS DEREGULATION OF "RESALE" SERVICES, IS NOT LIKELY TO BE ABLE TO RESTRAIN THE USPS.

3. CAN WE DEPEND ON THE OVERSIGHT PROCESS TO ENSURE THAT AGENCIES DO NOT GO OFF ON THEIR OWN?

NO. THE USPS HAS IGNORED THE VIEWS OF SENIOR MEMBERS OF THE COMMERCE COMMITTEES ON EMS. FOR THAT AND OTHER REASONS, THE CONGRESS SHOULD REVISE THE 1970 LEGISLATION TO REESTABLISH ITS AUTHORITY OVER THE POSTAL SERVICE.

THANK YOU VERY MUCH. I WOULD BE HAPPY TO ANSWER ANY QUESTIONS.

Mr. ENGLISH. We will now hear from Mr. Cavanagh.

STATEMENT OF MICHAEL F. CAVANAGH, CAVANAGH ASSOCIATES

Mr. CAVANAGH. Thank you, Mr. Chairman.

Mr. Chairman, thank you very much for giving me the opportunity to appear at these important hearings on government/private sector competition.

For the record, my name is Michael F. Cavanagh. I am founder and president of Cavanagh Associates, a Washington-based information policy consulting firm. I previously served for over 6 years on the majority staff of the House Post Office and Civil Service Committee. I am a contributing editor to several business publications, serve on the advisory board of the Bulletin of the American Society for Information Science, and recently was elected to the first board of the Videotex Industry Association. My clients include member companies of the Ad Hoc Committee for Competitive Telecommunications as well as a number of trade associations studying new technology issues.

Mr. Chairman, the focus of my remarks will relate to the Postal Service issue. What we are facing is a Government agency moving into several important new fields despite abundant private sector activity in those business areas.

The concept behind ECOM is hybrid electronic mail. Messages can move electronically thanks to cost-efficient packet-switched telecommunications networks, rather than being trucked cross-country on the Nation's highways.

When a message reaches its area of destination, it must be converted to hard copy paper form, however, since most American homes are not now equipped with telecommunications receiving terminals.

This kind of system obviously presents the opportunity for a perfect marriage of the traditionally private-sector responsibilities of data processing, printing, and telecommunications with the historic

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responsibility of the post office to deliver hard copy messages to every household in the country.

Instead, what we now have is the spectacle of the U.S. Postal Service initiating ECOM which takes it into data processing and printing, and shortly will lead to its entrance into telecommunications, a step which will directly contradict 100 years of American telecommunications policy. We see a $22 billion Government entity barging into a business which the private sector is already actively pursuing and already has demonstrated a competence in. Indeed, the American private sector has won many more Nobel Prizes for telecommunications than the Postal Service.

As you stated so well in your October 15, 1981, Congressional Record statement:

> Mr. Chairman, in the United States, we believe that where private enterprise can do the job, it should do the job * * * and nowhere is this policy more clearly established than in the area of telecommunications and information service.

So what is going on here? Basically, it seems that we have an extreme example of a Government agency rather blindly moving into competition with the private sector because there is a vague understanding that the information revolution will impact on its conventional business.

This extreme example points to the need for passage of the English bill, H.R. 4758, which would require congressional approval of Government moves into telecommunications or data processing. I testified earlier this month before the Post Office and Civil Service Committee and strongly urged H.R. 4758 as a solution to much of the accountability problem which has been evident in the postal community for some time. I think that the postal ECOM mess portends countless controversies in the future between various Government agencies and telecommunications carriers and electronic information providers. H.R. 4758 would set a sound policy now before problems inevitably multiply.

Returning to the postal situation, we see the Postal service moving ahead and blithely cross-subsidizing its ECOM service despite the fact that the very first point which Senior Assistant Postmaster General Jim Finch made to you in his October 5, 1981, testimony was that the Postal Service will not take revenues generated by the conventional classes of mail and use them to cross-subsidize any electronic mail service.

Later in that same testimony he said, of course, that common sense would indicate that 26 cents was too low a figure for ECOM service, but on January 4, 1982, that service did actually begin and it began at the 26-cent rate. This incredible situation led to the still pending Justice Department suit against ECOM, of course, although the current case is focusing only indirectly on the cross-subsidy points.

Besides Mr. Finch's statement, we have the shocking transcript of USPS general counsel Lou Cox's lame advice to the Board of Governors on why to stick with the 26-cent rate. Also, postal attorneys at the district court hearing on December 31, readily conceded that the 26-cent rate is not compensatory.

In a followup submission to your subcommittee, Mr. Finch states that, it is very difficult to compare the economic differences be-

tween our system and that of the PRC, since there are conceptual differences in system design.

Mr. Chairman, the U.S. Postal Service is carelessly moving into a variety of fields beyond its appropriate charter with no consideration about fair rates. A provision like H.R. 4758 is, therefore, desperately needed.

The final point I would like to make concerns the benefits of these strange actions. I think that it is fair to say that many in the postal community believe that ECOM is vital to the Postal Service future. That is what postal management has told them. Therefore, the particular steps taken by the USPS have support from some, although these steps are not fully understood. In the final analysis, those people must realize that the Postal Service does not have the expertise to compete with private sector industries in their area of business. Further, no one in the postal community gains from cross-subsidies, such as those currently going to ECOM. Cross-subsidies only benefit management officials who have staked their professional reputations on those systems.

Mr. Chairman, that is a strong statement and I do not in any way want to suggest that I am impugning the motives of the Postmaster General. Mr. Bolger is truly one of the most dedicated public servants in the Government service today. Still, we do have statements like that from Mr. Cox which suggest that there is a dynamic pulling postal management toward making ECOM a success at all costs.

We already see a dismal beginning for ECOM, with less than 7,000 messages moved nationwide last week. To be sure, postal management will argue that the pending court case causes uncertainty. While this is probably true, it certainly would be easy for a major mailer to test the system by moving a relatively small mailing of about 100,000 pieces through ECOM at the current low rate just to try it out. Obviously, no major mailer has come close to doing that after 7 weeks. Indeed, more mailers are saying privately that they had no intention of actually using ECOM in the near future, they just signed the much ballyhooed customer list for political reasons.

Now, to be sure, at a subsidized rate, ECOM could eventually achieve some substantial volume, but again, who benefits?

In the private sector, the profit-motive constrains operational nonsense. Unfortunately, the same cannot be said for some government institutions.

Thank you, Mr. Chairman.

Mr. ENGLISH. Thank you very much, Mr. Cavanagh.

Would you agree with the same use of the words electronic mail, electronic fund transfers that Mr. Jasper characterized?

Mr. CAVANAGH. Absolutely, sir; and going beyond that a little bit, we have the interesting situation of ECOM being perhaps an anachronism within a relatively short period of time if the kind of trends in EFT and in simply using automatic telling machines continue . The Postal Service really is just a big national payment-bill agency. Sending out bills, collecting bills; that is where the volume is. To be sure, we like to use it for sending our greeting cards a few times a year, and we like to be able to send personal letters, but the volume and the money comes from this billing network. And, it

may well be that through these new systems, ECOM will be an anachronism in a relatively short period of time, although postal management cannot conceive of the possibility that people would not want to get things in envelopes for the next 40 years, and that is questionable.

Mr. ENGLISH. Would you also favor legislation to prohibit the Postal Service from offering any of these services without the express approval of Congress?

Mr. CAVANAGH. Yes, sir, I think your bill does that very well.

Mr. ENGLISH. And would you, Mr Jasper, also favor that same treatment for the Federal Reserve in offering any form of telecommunications services?

Mr. JASPER. Our association has not taken a position on the role of the Fed in electronic funds transfer. Our companies are in the long-distance transmission business and, as I understand it, there is no prospect that the Fed would build and operate its own transmission system. We presume they would lease circuits from private companies and we hope that our companies would have a fair shot at providing those services.

However, philosophically, since we are allied with a substantial number of other trade associations representing different facets of the communciations industry, including the data processing services industry, I believe that my companies probably would take the same approach, which is that the Government should not offer services which can effectively be offered by the private sector.

Mr. ENGLISH. Well, should any Government agency be permitted to supply the telecommunications portion of any information service either through its own facilities or a resale carrier?

Mr. JASPER. Generally speaking, while we have not addressed those other facets of communications, I think our position would be that telecommunication service is historically and properly a private sector function and should remain so in all of its manifestations.

Mr. ENGLISH. Mr. Cavanagh, do you believe the current design of the ECOM system would pave the way for the Postal Service to move into end-to-end electronic mail services?

Mr. CAVANAGH. Yes, I do; I think what we will have is a situation in a few years when they start losing some money, that would be the dynamic for them moving to do that ostensibly because it makes sense since the equipment is in place. And I also think that the dynamic is there for them to move very quickly into generation two electronic transmission, although they are not doing it at this moment.

Mr. JASPER. Could I add something to that?

Mr. ENGLISH. Sure, Mr. Jasper.

Mr. JASPER. From a practical point of view, which is one that is often taken in the legislative arena, if we were to be offered an iron-clad guarantee that the Postal Service would be excluded from generation three, I suppose we would have to say that that would be a desirable step. But I believe the proposal to exclude the Postal Service from generation three, even if the Postal Service were sincere about it and had followed through in the Senate amendment that was discussed earlier, is a snare and a delusion. I believe it is a tactic for disarming those who believe that telegraphy, whatever

its current name, whether it be enhanced communications services or what have you, should be a private function. The Postal Service would like to get its toe in the door through this disarming approach, promising that: "We do not have any intention of ever getting into generation three."

All of the studies show that even if generation two helps to keep Postal Service volume high up to the end of the century, sooner or later generation three will be the real threat. If USPS is then equipped with a nationwide telecommunications system and tells the Congress sitting here in Washington at that point in time, 20 or 30 years hence:

> Well, gee, all we need to do now is repeal that stupid old statute that was passed back in 1982 and since we have this network in place, all we need is another switch and we can connect every home in the country.

Also it seems to me that passing legislation that defies technology is not well advised.

Mr. ENGLISH. Do you think that ECOM represents a migration strategy, Mr. Cavanagh, on the part of the Postal Service?

Mr. CAVANAGH. I think it does, and I think that it is the migration strategy that probably does not make very much sense. Again, I refer to a vague understanding that things are changing and I do not know that there is the kind of sophisticated migration strategy that an A.T. & T. might employ.

In the final analysis, at some point after a number of court cases and after a number of years, the Postal Service would, if they got into telecommunications, have to actually compete, and the premise that they can do telecommunications better than, just to name one company off the top of my head, A.T. & T., does not seem to make very much sense.

To be sure, for a period of time they could cross-subsidize as they are doing right now in ECOM. But at some point, they would have to outperform. They have 670,000 people, none of whom have any expertise in telecommunications. A.T. & T. and then, of course, all of the competitors, have a lot of experience in telecommunications. That is their business. So what is going on here?

Mr. ENGLISH. So evidently, you do not think much of my colleague's opinion that the law prohibits the Postal Service from doing any of this type of subsidization and therefore, we do not have to worry about it. You are not buying that, are you?

Mr. CAVANAGH. Well, not if one takes the reasonable inference of Mr. Finch and Mr. Cox and of the Postal Service attorneys at the district court. One can understand that honorable people could disagree last year whether there should be an 18- or 20-cent stamp—there were different costing methodologies and that was worked out but in this case, we have the first instance in the 11-year history of the Postal Service of them deliberately starting a service which they freely admit is cross-subsidized if you take all of their statements put together.

Mr. JASPER. Could I add a comment that makes the possibility that the Postal Service could improve its financial situation by competing in the ECOM business even more questionable? Mr. Cavanagh correctly pointed out that they would be going into a business that has been occupied for 100 years by experts.

But quite aside from that, let us just look at the dollars and cents that are involved. The ECOM message is priced at 26 cents. The cost of transmission is under 2 cents. The Postal Service has insisted it does not want to build or own its own transmission services but to buy circuits from other carriers, with which they would be competing, and then resell those circuits.

If it is going to be nondiscriminatory on the delivery end, and charge itself the same as it charges us for delivery, it would have to achieve some significant savings on the 2-cent transmission part of the 28-cent total cost if it is offer its EMS customers a price advantage. But it is very hard to imagine where they could get any profit margin out of reselling our 2-cents' worth of transmission, so that they could then underprice us on the total package. Thus, they would have to be trading on some other advantages, whether they be cross-subsidies, taxpayer subsidies, or the Federal Government trademark, or the through-service image, or what have you. It could not be done by fair competition.

Mr. CAVANAGH. And, Mr. Chairman, if I could just add, of course, the alternative, which is already in place in some situations, would be for the private sector to move the message electronically, print it out and then just dump it into the Postal Service and the Postal Service, in essence, gets an access charge, because the Postal Service will not have had to do the work of transporting that message to the locality, but it will be dumped in at either the standard 20-cent rate or a presort rate for high volume. That benefits the postal institution. That benefits postal workers. That benefits mailers.

And why the idea that Postal Service starting to buy its own printers and data processing and, at some point, telecommunications—again, who that benefits is difficult for me to understand.

Mr. JASPER. Could I add one other point on the question of the quality of the service? This is also indicative of the difficulty for the Postal Service in entering into a new sector in which it has no particular expertise. In our opinion, the equipment which they have installed is well behind the state of the art. You had testimony here last October which says the printers are character-by-character printers that print 5 pages a minute, whereas one of our companies has commissioned the production of a facsimile printer that prints 70 pages a minute. Thus, it can reproduce the letterhead or the logo which, of course, the character-by-character printer will not do.

Now, why is it that the Postal Service has opted for a character printer instead of a facsimile printer that can reproduce logos and letterhead. Well, possibly because it wants its own ECOM mark on the letterhead and it could not very efficiently print the SBS, GTE, Telenet, or Graphnet mark on their ECOM messages. Thus, the choice of an inefficient printer supports the effort to make ECOM look like a Postal Service offering, whereas the decision of the PRC as approved by the Board of Governors, makes these properly private-sector offerings, with the Postal Service merely serving as the printer and as a delivery agent. That, basically, is the same model as in Mailgram, which is a Western Union mark, not a Postal Service mark.

So they have, by this device of using old technology, installed a system which permits them to get their mark on the message instead of our mark.

Mr. CAVANAGH. And again, that will be exacerbated—excuse me, Mr. Chairman, but that will be exacerbated 2 or 3 years from now. You have a 26-cent rate, so it does not make any sense for a private sector competitor to set up a hybrid electronic message system. Therefore, that will not be set up. Therefore, the postal letter processing machines and whatever printers will be the state of the art for hybrid electronic messages that the American people and American business would be using and 3 or 4 years from now, when it becomes clear it is behind the times, there will not be a growth of competitive operations with the profit motive of trying to produce the best product.

Mr. ENGLISH. Have you or your clients found the Postal Service to be cooperative with regard to the ECOM dealings? Has the Postal Service explained exactly what their actions and intentions are fully and clearly?

Mr. JASPER. I should like to point out that in February 1980, when I testified before a Post Office subcommittee, I noted that we had written to the Board of Governors to encourage them to adopt the PRC's recommended decision. I had expressed in that letter our hope that, upon the Board's quick approval of the system, USPS would work cooperatively with us in the design of an effective system in which we would provide the transmission and they would provide the physical delivery. That is how we understood the ECOM decision to be framed.

We heard not one single word in the ensuing months about cooperating in the design of the system. Instead, the Postal Service contracted with an RCA subsidiary to design the system and they did not consult with any of our companies either. So when the proposal finally appeared in the Federal Register, it was as a proposed offering. It was the first notice that we had of the character of the system at all, quite a late point for us to begin to tell them about the state of the art.

So, no; I would not say that they have been very cooperative.

Mr. CAVANAGH. And, Mr Chairman, on the policy issue, I think they are very cooperative unless you want a real answer to the question.

They held a public meeting last summer to talk about their standards but also to get into policy—I have the transcript here. Very briefly, let me just say that it was introduced by the Senior Assistant Postmaster General for Research and Development, who has since taken early retirement, Mr. Paul Jaquish, and he said: "As you know, we have made a public policy statement that says that we are not going into the telecommunications business."

Then they gave the presentation and opened it up to questions and I happened to ask the first question and I said: "I was wondering if Paul Jaquish could be a little bit more—give us a little more expansion on his opening statement so we can get a policy issue behind us. You said that the Postal Service is not getting into telecommunications. Does that mean that the Postal Service will not lease the telecommunications line and compete in the telecommunications portion?"

Mr. Jaquish said: "I would like to limit the discussion to the purposes stated and I think that stands all by itself."

Mr. ENGLISH. Mr. Kindness?

Mr. KINDNESS. Thank you, Mr. Chairman. I do not have any questions. I appreciate very much the testimony you gentlemen have presented. It is outstanding in its clarity. Thank you.

Mr. ENGLISH. Well, I have got a couple more. Mr. Jasper, you were saying that the Postmaster General has made the statement that the Postal Service is not interested in going into this area unless it has the express approval of Congress, and I am not sure whether you said "and" or "or"——

Mr. JASPER. Both.

Mr. ENGLISH [continuing]. The executive branch and——

Mr. JASPER. Yes.

Mr. ENGLISH. Given what has happened with the amendment to S. 898, do you think the Postmaster General may interpret that amendment to be the expression of congressional approval that he is looking for?

Mr. JASPER. If he is, he needs a new pair of spectacles. The amendment is quite murky in some respects and the floor debate is even worse, but it is crystal clear with respect to whether it grants an authorization. It expressly states that nothing in the amendment shall be construed either to authorize or prohibit USPS entry into EMS. In other words, a postal service offering must rest on some other authorization, which he has to find in other legislation. It could not possibly be construed as an authorization. No way.

Mr. ENGLISH. Again we get back to this question of interpretation. If Congress is simply saying we are not prohibiting and we are not authorizing, that means that we are not taking a stand on it. We are leaving it up to the Postal Service. Could you make that interpretation?

Mr. JASPER. What it says is, if you have authority someplace else, this does not take it away. If you do not have authority someplace else, this does not give it to you. It is quite clear that that is what it says and proponents of both of the positions that were compromised in the Senate, as Mr. Wunder correctly indicated, agreed on that interpretation of the bill.

Mr. ENGLISH. But many times whenever we get into murky areas such as this, we see that people pretty much interpret the law however, they want to see it.

Mr. JASPER. Well, I can tell you that the floor colloquy includes a statement by Senator Stevens, who was the principal proponent of the Postal Service view in the debate, that the correct construction of the amendment is as I described, that it does not create the authority for electronic services. He said, however, that his opinion, they already have that authority, so they do not need it here. That is why I state without any equivocation whatsoever, that no one could read that bill as an authorization. You must find the authority someplace else. And the only place it can possibly be found is in the rather general hortatory language of the Postal Reorganization Act to introduce modern methods.

Mr. ENGLISH. Well, that is exactly my point. Congress is addressing this issue once again. It is pointing back to the Reorganization Act, which gives us the express authority. This is the green light

that we have been looking for from Congress and obviously, given Senator Stevens' statements on the floor of the U.S. Senate, that is exactly what we will do—now we go.

Mr. JASPER. That is why your question about labels was so relevant. I am reminded of the story about the duck. If it looks like a duck and it walks like a duck and it quacks like a duck, it probably is a duck. So it is with telegrams. If it is originated like a telegram, if it is transmitted like a telegram, if it is delivered like a telegram, and it quacks like a telegram, it probably is a telegram.

It so happens we call those things by various names today, such as FAX GRAMS, which is the mark of one of our companies, Telemail, which is the mark of another one of our companies. We do not call them telegrams. That is a Western Union trademark. But you cannot make it mail just by calling it mail. And the Postal Reorganization Act which you referred to—I do not have the language in front of me—speaks of improving the movement of mail, not improving the movement of electrons.

Mr. ENGLISH. Mr. Jasper, that would probably be correct if we did not really have an interest in it. But whenever we have an interest in these things, it is amazing how it colors our view of them. And our interpretation is colored, particularly if we would like an interpretation to come out a certain way. And that is what I mean about this difficulty that we get into here. I would not have had difficulty at all believing that the Postmaster General would come out and say that this is an action by Congress—after all, we had stated before Congress that we did not want this authority, but obviously the Congress has given us this authority and because of the Reorganization Act, we have got the authority to do it.

So, we are reluctant to, but golly, if Congress insists, we have got to move ahead, we certainly respect Congress.

Mr. Cavanagh, you are shaking your head. Do you want to add a little something to that?

Mr. CAVANAGH. Yes; Mr. Chairman, I think you have put your finger on it exactly—this is going to be the cornerstone judgment as far as what the future of the postal system is.

My interpretation of the 1970 act and, again, spending about 7 years on the House Post Office Committee and following things for the couple of years that I had my own business, is that in fact what Congress meant, as I see it, in 1970 was that the Postal Service should have autonomy in its conventional postal business.

They built, during the 1970's, a billion dollar bulk-mail system that was a horrible management mistake. But certainly I think it was the intention of Congress that they should have every authority to do that, to make mistakes and to do a lot of things right. But clearly we are coming to a change in the way a lot of things are done as a result of the information revolution, and there does have to be some definitive congressional policy as to what the future of the Postal Service will be. Otherwise, you are exactly right. These people can pretty much do anything they want. Certainly the Postal Service can do anything it wants.

Mr. JASPER. Could I add one point to the interpretation of the act issue?

Mr. ENGLISH. Surely.

Mr. JASPER. If Mr. Bolger's statements, which I referred to, had been made in 1969, and the Postal Reorganization Act followed, then he would have some basis for arguing that those provisions are the sufficient signal, though I think they are obviously very general language. However, he made these statements in 1980 and 1981, 10 years after the enactment of the Reorganization Act of 1970 and stated at that time that he would not proceed without a clear signal from both—both the administration and Congress.

Now, as I indicated, not only Senator Stevens, but the opponents of his position, Senator Schmitt, Senator Cannon, and Senator Packwood, the committee chairman, all agreed in floor colloquy that the bill does not create any new authority. Further, they stated that the USPS does not now have such authority and should not offer electronic services except with the express approval of Congress.

Even if Mr. Bolger argues that at least it was a tacit acquiescence in the possibility that they might be able to invoke some of the general authority, where can he find any support from the administration for his position? The Justice Department is suing him in court.

Mr. ENGLISH. Well, all he would have to say is, well, the President has not said anything about it. So, it must be all right.

Mr. JASPER. The joint filing by the Commerce Department and the Justice Department in the PRC proceeding is rather strong. It is difficult to believe that two cabinet agencies, one being the legal department, would take a position that was in violation of the administration's position.

Mr. ENGLISH. I hope you are right, Mr. Jasper. I hope you are right. With regard to this issue of cross-subsidization, would creating a subsidiary handle the problem?

Mr. JASPER. A subsidiary is an issue that we have been wrestling with interminably in FCC proceedings and in the two congressional Commerce Committees concerning restructuring of A.T. & T. The conventional wisdom stated by economists and regulators is that the subsidiaries are only devices which only marginally improve your ability to trace costs. They do not change incentives. They do not deal with intractable problems of allocating joint and common costs, which in all large enterprises are significant elements of the total budget and the allocation of which is inherently arbitrary. They do help, but only marginally and not sufficiently.

Mr. CAVANAGH. I agree with that.

Mr. ENGLISH. I want to thank both of you gentlemen for appearing before us today. Your testimony has been extremely helpful to us. I thank all of our witnesses today.

With that, the subcommittee will adjourn.

[Whereupon, at 12:13 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

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APPENDIXES

APPENDIX 1.—STATEMENTS SUBMITTED FOR THE RECORD

A. LETTER FROM JEROME L. DREYER, DATED FEBRUARY 22, 1982, SUBMITTING POSITION PAPER OF THE ASSOCIATION OF DATA PROCESSING SERVICE ORGANIZATIONS

THE ASSOCIATION OF DATA PROCESSING SERVICE ORGANIZATIONS

FEB 23

JEROME L. DREYER
PRESIDENT

February 22, 1982

The Honorable Glenn English
Chairman
House Subcommittee on Government
Information and Individual Rights
B349-C Rayburn House Office Building
Washington, DC 20515

Dear Mr. Chairman:

You are undoubtedly aware of the controversy surrounding the Postal Service's proposed entry into the electronic message services marketplace. To aid your consideration of this important matter, enclosed please find a copy of ADAPSO's Position Paper on Government Provision of Electronic Message Services, adopted by the ADAPSO Board of Directors on February 16, 1982.

Should you have any questions or need further information, please feel free to call upon me or ADAPSO's Associate General Counsel Michael Nugent.

Respectfully,

Jerome L. Dreyer

Enclosure

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POSITION PAPER

OF THE

ASSOCIATION OF DATA PROCESSING SERVICE ORGANIZATIONS, INC.

EXECUTIVE SUMMARY

The U.S. Postal Service (USPS) is vigorously pursuing entry into the electronic message business through two principal vehicles, the Electronic Message Services System (EMSS) and the Electronic Computer-Originated Mail (E-COM) program. Virtually the entire ADAPSO membership of private sector firms has a stake in the provision of electronic message services as direct providers of such services or as providers of underlying products and services.

Analysis of the EMSS and the E-COM programs and stated USPS intentions reveal that the Postal Service is preparing to compete with the private sector in the electronic message services marketplace on a scale far larger than that evident in the E-COM program. The USPS has obtained PRC authority to become a provider or reseller of basic transmission services between customers and postal facilities receiving electronic messages ("serving post offices" or SPO's) and between SPO's. These services may entail significant embedded data processing capabilities if the customer or SPO is able to store and retrieve messages and to manipulate the content of messages via hardware or software functions. Already, the USPS has obtained authority to engage in substantial data processing services at SPO's and to provide conversion of electronic messages into hard-copy. The Postal Service, moreover, has indicated it seeks to serve the computer terminal owner. Additionally, the USPS has been permitted to have 100 percent back-up data processing capability for its SPO functions, a proven facility for additional public offering of data processing services.

The private sector has established that it is willing and able to serve the expansive electronic message services marketplace. There has been no demonstration that government enterprise is warranted or desirable in any sense. Accordingly, ADAPSO views Postal Service competition with the private sector in this field as unnecessary and, pursuant to longstanding economic principles embodied in OMB Circulars A-76 and A-121, improper. ADAPSO also opposes the extension of the Private Express Statutes so as to bring within the postal monopoly any electronic message services involving any component of physical delivery of hard copy information. The Postal Service should concentrate on its traditional role of receipt and delivery of hard copy and could enhance that role by providing the space and operations personnel necessary for private sector provision of electronic message services involving hard copy output.

If the Postal Service is permitted to enter the competitive electronic message services business, it is ADAPSO's position that the USPS should be made to compete fairly without benefit of improper cross-subsidy derived from its regulated status. It is apparent that the Postal Service's E-COM program will be subsidized by other

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USPS services or with general Treasury funds. Cross-subsidization may be prevented by requiring the Postal Service to conduct its competitive activities through a subsidiary with stringent accounting and structural separation requirements designed to detect and nullify opportunities for cross-subsidization and other competitive abuses.

It is also ADAPSO's position that the USPS should be required to provide interconnection with its monopoly distribution facilities to all able and willing firms on a fair and non-discriminatory basis. It is apparent that the currently operational E-COM program discriminates in favor of one E-COM participant, AT&T, over others and penalizes the small or low-volume E-COM participant, to the detriment of free and fair competition in the electronic message services marketplace.

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INTRODUCTION

The Association of Data Processing Service Organizations (ADAPSO) is the trade association of this nation's computer services industry which generated over $15 billion in revenue in 1980. ADAPSO's members provide a broad range of computer services to the public, including batch data processing, facilities management, remote computing (timesharing), software products, software design, consulting, and support services, and integrated turnkey systems.

Virtually the entire ADAPSO membership of nearly 500 private sector firms has a stake in the provision of electronic message services, either as direct providers of such services, as enhanced service providers pursuant to the Second Computer Inquiry, or as providers of underlying software or services including the conversion of electronic messages into hard copy for subsequent physical delivery. Of serious concern to this industry is the improper and possibly anticompetitive entry of the United States Postal Service into the electronic message business.

The United States Postal Service (USPS) is vigorously pursuing entry into the electronic messages business through two principal vehicles, the Electronic Message Services System (EMSS) and the Electronic Computer-Originated Mail (E-COM) program. It is the position of ADAPSO that such entry is unnecessary and improper and should be halted, and that the manner of USPS entry will likely result in unfair and decreased competition in the electronic message services marketplace.

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Before elaborating upon this position, it is necessary to dispel the confusion created by repeated USPS reference to the "electronic mail" phenomenon. There is a fundamental distinction between the USPS governmental postal monopoly over delivery of certain letter mail, as conferred by the Private Express Statutes, and traditional private sector provision of electronic message services and communications services to the public. Application of the term "electronic mail" to the electronic message services business incorrectly suggests that electronic message services are within the domain of the Postal Service. It further serves to blind observors to the fact that the USPS is diversifying into the new business of electronic message service and that the USPS is embarking upon unnecessary entry into a marketplace historically served exclusively, and well, by the private sector.

Appropriately, the USPS Electronic Computer-Originated Mail venture was first proposed in 1977 by a private sector firm, Shell Oil Company. At that time, E-COM was called the "Advanced Communication Service" with no reference to "electronic mail" and all that the term may imply.

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I. THE POSTAL SERVICE INTENDS EXTENSIVE INVOLVEMENT IN THE ELECTRONIC MESSAGE SERVICES BUSINESS

The E-COM and EMSS projects undertaken by the Postal Service represent only the beginning of extensive USPS involvement in the electronic message services business. This is graphically revealed by analysis of the programs and of the underlying process leading up to their introduction. Throughout proposal and approval of these ventures, particularly the E-COM program, both the Postal Rate Commission (PRC) and the Postal Service have successfully endeavored to provide the Postal Service with the means to engage extensively in competition with the private sector in provision of electronic message services to the public.

A. The EMSS Program

EMSS, a purported outgrowth of E-COM, entails a multimedia program whereby computers, discs, hard copy and direct computer input, are transmitted to designated USPS offices by means of contracted carrier services. Subsequently, the USPS converts the output into hard copy and physically delivers the hard copy through its local distribution facilities. Plans call for EMSS implementation over the next ten to fifteen years, with 1985 the target date for 15 operational sites and 1995 as the date for full EMSS implementation at 87 sites nationwide. In addition to providing this description of EMSS, the General Accounting Office has estimated that as of May of 1980, the USPS had already spent approximately $18.9 million. The GAO forecasts total EMSS system cost to be approximately $1.8 billion (in 1978 dollars) by the mid-1990's

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(see Report by the Comptroller General of the United States, "Implications of Electronic Mail for the Postal Service's Work Force", at 3-4 (February 6, 1981)).

B. The E-COM Program

The USPS E-COM venture, now operational, has a long and convoluted history which nonetheless clearly indicates USPS and PRC intention to pit the USPS in direct competition with the private sector. As stated previously, E-COM was initially conceived by the Shell Oil Company in 1977 as the "Advanced Communication Service" proposal.

Shell sought permission to install its own printers and communications controllers in certain USPS postal facilities. This equipment would have enabled Shell to enter messages into the postal system electronically and directly from its private nationwide communications network. Upon deliberation, the USPS accepted the Shell concept but decided to offer the service to the public generally. Because of its previous joint Mailgram venture with Western Union, the USPS entered into sole-source procurement negotiations with Western Union. The result was the E-COM proposal first presented to the Postal Rate Commission on September 8, 1978.

The USPS filed with the Postal Rate Commission a formal classification request calling for the creation of a new subclass of first class mail, E-COM. Under the USPS proposal, Western Union would have received messages electronically at its facility, for processing and retransmission electronically over its own

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electronic circuits to 25 Serving Post Offices, or SPO's. Electronic message preparation was to be performed by the sending customer with message input accomplished jointly by the customer and Western Union. Subsequent processing and switching of electronic messages were to be performed by Western Union using its own facilities and equipment. Western Union was also required to install and operate communications controllers at each of the designated SPO's and to maintain billing and accounting records. The Postal Service's role was limited to the installation and operation of the printers and paper-handling equipment at the SPO's, the delivery of the hard copy letters, and customer billing.

In response to the USPS E-COM request, the PRC instituted a proceeding, Docket No. MC78-3, entitled "Electronic Mail Classification Proposal, 1978" (hereafter referred to as the "E-COM Docket"). On December 17, 1979, the PRC issued its Opinion and Recommended Decision in the E-COM Docket. The PRC generally approved the USPS E-COM proposal but ordered a number of significant changes.

The Commission rejected USPS's sole-source arrangement with Western Union and substituted a modified arrangement whereby multiple carriers would interconnect their respective transmission facilities with the SPO's for transmission of electronic messages. In addition, rather than simply installing and operating the printers and paper-handling equipment at the destination SPO, the USPS was permitted to install and operate a computer system in each SPO to perform various data processing functions currently provided by private computer service firms and, under the initial

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USPS proposal, functions that were to be performed by Western Union. (Opinion and Recommended Decision, Docket No. MC78-3, at 7-8). Conversion and printing, enveloping and delivery of the hard copy message would be performed by the Postal Service as under the initial proposal.

The USPS did not obtain explicit authorization from the PRC to provide telecommunications links connecting the public to the SPO's nor was it given explicit authority to lease telecommunications lines for transmission of messages between SPO's. Nevertheless, in its Recommended Decision, the PRC stated that "[w]e do not in any way foreclose direct Postal Service provision of customer-to-postal computer communications (assuming any necessary regulatory approvals) should that become desirable in the future" and, further, "[w]e do not, by this decision, foreclose the possibility that the Postal Service may at some time own, lease, or obtain by contract a telecommunications net devoted to electronic mail service." Opinion and Recommended Decision, Docket No. MC78-3, at 7, 8. The ramifications of this latitude are underscored in the PRC Opinion. There the Commission noted that the E-COM plan approved

> does not foreclose a transmission system operated by or for the Postal Service alongside the others. The customer would have the option of choosing his own carrier or of accessing the Postal Service's communications unit--or if the Service had decided to proceed by contract [as a reseller]--the telecommunications contractor. (id. at 34).

The PRC, in its December 17, 1979 decision, limited the E-COM venture to an experimental service of limited duration. The PRC also recommended that the rates and fees for E-COM be

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26¢ for a one-page message and 31¢ for a two-page message, figures that were based upon an assumed USPS total capital investment of $7.4 million (id. at 139). The E-COM plan approved also entailed 100 percent back-up data processing capability in the event of primary system disruption (id. at 30-31).

On February 22, 1980, the USPS Board of Governors directed the USPS to seek PRC reconsideration of its Decision. On the whole, the USPS acquiesced in the Commission's Decision but requested that the PRC establish E-COM as a permanent service and not temporary and experimental. The USPS also sought clear and explicit PRC authorization for USPS to become a competing resale communications carrier in the provision of E-COM services to the public where there was "demonstrated need" for its entry into common carriage.

In its April 8, 1980 Opinion and Recommended Decision Upon Reconsideration in the E-COM Docket, the PRC re-emphasized its view that the Postal Service may operate its own telecommunications link as a carrier (id. at 5). The PRC also explicitly authorized the USPS to become a resale communications carrier upon the basis of "demonstrated need" (id. at 6-8), thereby permitting USPS competition with E-COM carriers. The PRC, however, affirmed its decision to authorize the proposed E-COM service as experimental and of limited duration (id. at 19-20).

The USPS Governors, on August 15, 1980, allowed the PRC's Reconsidered Recommended Decision to take effect under protest and directed the USPS to commence E-COM on January 4, 1982. The

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USPS protested the PRC Decision to the extent it restricted the E-COM venture to a temporary and experimental service and petitioned the United States Court of Appeals for the District of Columbia to set aside that part of the Decision. The Court did so and remanded the Decision back to the PRC, a step launching over twelve months of dispute between the USPS and the PRC that continues to this day.

On January 16, 1981, the Postal Service contracted with RCA Government Systems Division for an E-COM system whose costs and applications differed significantly from those of the system upon which initial approval of E-COM had been based. This the PRC itself found upon analysis of the public portions of the contract between USPS and RCA. Order of the Postal Rate Commission Suspending Remanded Proceedings, Docket No. MC78-3, at 6, n.1 (December 3, 1981).

The PRC identified a number of staggering discrepancies between the RCA contract for the E-COM system and what the PRC had initially approved in the E-COM Docket. The RCA contract costs totalled at least $38.6 million, a sum more than five times the initial capital costs estimated. The RCA contract entailed E-COM service features not previously considered by the PRC, e.g., direct acceptance by the RCA transmission system of messages recorded on computer tape physically delivered to the E-COM carrier or the SPO; the capability to move messages between SPO's through Express Mail transfers of magnetic tapes; and direct private line message input to SPO's. The latter new service feature would result, according to the PRC, in "omission of telecommunications common carriers as necessary

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intermediaries between customers and the SPO's" (id. at 6-7, n.1), and sets the stage for the eventual emergence of the USPS as a communications carrier or a resale carrier.

It is also noteworthy that the USPS E-COM Invitation for Bid (IFB) required the provision of an "Administrative Network [as a component of the E-COM system] which connects all SPO's to a Management Operations Center (MOC) through common carrier telecommunication services" (IFB 104230-80-A-0207, September 24, 1980, at 25). The IFB also stated that the Administrative Network was to be designed to handle USPS administrative traffic and although "not intended for transmission of customer message traffic" (id.), the Network is clearly capable of transmission of customer messages. RCA was awarded the E-COM system bid.

C. USPS Involvement in the Electronic Message Services Business

The evolution of the EMSS and E-COM ventures reveal the systematic and, thus far, successful effort by the PRC and the USPS to enable the USPS to compete with the private sector in the electronic message services marketplace and to enhance its market penetration. Already, in the E-COM venture alone, both the PRC and the USPS have agreed that the Postal Service may become a provider of basic transmission services between customers and postal facilities, and between SPO's, and may be a reseller of such services. If these or other electronic message services offered by the USPS entail significant embedded data processing capabilities, where the customer or SPO is able to store and retrieve messages and

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to manipulate the content of these messages via software and hardware functions, then USPS competition with the private sector is compounded.

The USPS has already been granted authority by the PRC to engage in substantial data processing services at each regional SPO, services traditionally provided by private industry. Postal Service conversion of electronic messages into hard copy represents an additional source of government competition with the private sector. Moreover, the USPS has received authorization to have 100 percent back-up data processing capability for its SPO functions. This "back-up" provides yet another means for the USPS to compete with independent computer service vendors.

ADAPSO has had many years of experience with enterprises (such as banks and AT&T), which have regulatory limits on product and service offerings, exploiting "excess" or "back-up" data processing capacity to offer computer services to the public that are otherwise prohibited. There is significant opportunity for the USPS to publicly market its "excess" or "back-up" data processing capacity, arguing that efficiency demands this intrusion into the private sector and ignoring the fact that capacity committed elsewhere is not available for the intended "back-up" purposes.

The Postal Service has attempted to disavow any interest in publicly offering basic transmission services, computer services and end-to-end (Generation III) electronic message services. The evolution of E-COM, in particular, seriously undermines this protestation. Moreover, Postal Service executives have repeatedly indicated that the USPS will provide these services unless prevented.

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Senior Assistant Postmaster General James Finch refused to accept an outright ban on USPS ownership or lease and resale of private transmission facilities during October 5, 1981 hearings before the House Subcommittee on Government Information and Individual Rights. William Sullivan, a Governor of the Postal Service and Chairman of its E-COM Committee, has been quoted as saying that the USPS "must reserve its options" should carriers not support E-COM (Communications Daily, October 6, 1981, at 4), and that owners of computer terminals (i.e., end-to-end electronic message services) are the "Postal Service's main market" (Communications Daily, July 8, 1981, at 1). These ambitions have been heard before, more than five years ago, in November 12, 1976, testimony of J. T. Ellington, Jr., then Senior Assistant Postmaster General, before the National Commission on Electronic Funds Transfer, and in a December 10, 1976, Postal Service Staff Study entitled "The Necessity for Change" (Committee on Post Office and Civil Service, 94th Cong. 2d Sess., at 30-1 (Comm. Print No. 94-26)).

USPS intentions and the evolution of E-COM indicate that the Postal Service is positioning itself to compete with the private sector in the elctronic message services marketplace on a scale far larger than that evident in the current E-COM program. Unless prohibited, the USPS will become entrenched in the electronic message services business, a result that is contrary to this nation's fundamental commitment to rely on the private sector for provisions of goods and services.

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II. POSTAL SERVICE COMPETITION WITH THE PRIVATE SECTOR IN THE ELECTRONIC MESSAGE SERVICE MARKETPLACE IS UNNECESSARY

The electronic message services business, although an infant and emerging field, is already highly competitive and dynamic. It is an area characterized by intense research and development efforts, vigorous innovation and robust marketing practices. As the cost of computers and terminal devices declines, it is expected that the electronic message market will expand dramatically, further attracting competition and innovation. There is every indication that the private sector is highly capable of and will continue providing electronic message services in an adequate and efficient manner responsive to existing and eventual consumer demand.

All of the major computer networks in the United States already offer electronic message services utilizing almost exclusively the intercity and long-distance transmission facilities of AT&T. GTE-Telenet provides Telemail while General Electric Information Services Company offers Quik-Comm over its Mark III service network. Tymnet's system is called On Tyme. Datapac offers Envoy 100.

An increasingly large number of timesharing vendors and software houses offer electronic message systems. These systems can be used on a remote and interactive timesharing basis, may be ordered for intra-corporate installation as in-house software packages, or purchased as in-house turnkey systems. Available systems include those offered by Computer Corp. of America (COMET);

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Scientific Time Sharing Corp. (MAILBOX); Dialcom, Inc. (MAILCALL); Compuserve (Info-Plex); Microcom (Micro-Courier); and by Bolt, Beranek & Newman, Inc. (HERMES). Additionally, Computer Sciences Corporation, Automatic Data Processing, Inc., National CSS, United Information Services, Inc., The Source, NLT Computer Services Corporation, Applied Data Research, Inc., and an increasing number of other computer service vendors provide electronic message systems, and/or software, and/or conversion of electronic messages to hard copy to their customers.

The vendor of integrated office systems is also active in this market, providing electronic message systems as an available function in communicating word processors and turnkey systems. These vendors include Datapoint Corporation, Wang Laboratories, Inc., Prime Computer, Inc., Xerox and IBM. In addition, a large number of major corporations have their own in-house, store-and-forward computer-based message systems for inter-office administrative purposes.

The electronic message systems described above involve, for the most part, "Generation III" systems in which both the sender and the recipient of the message have a terminal device connected by a telecommunications line to the message computer. Generation III systems are also called end-to-end or terminal-to-terminal electronic message systems. In a "Generation I" system, hard copy messages are converted to electronic impulses for transmission over telecommunications lines to a destination where the messages are reconstructed in hard copy form with subsequent physical delivery. Generation I services include Western Union's Mailgram, Graphnet's

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Faxgram and the Western Union telegram. "Generation II" services entail message input in electronic form via telecommunications lines with output converted at the destination into hard copy form. Generation II services include Mailgram II as well as Faxgram in certain situations. Other private sector offerings in the Generations I and II categories include Tymnet's "TYMEGRAM", Southern Pacific's "Datapost", Lincoln Data Service's "Priority Dispatch", Diversified Data Processing's "Overnight Message Service", Spence Enterprises "Communique", Registered Express' "Registered Express" and Telepost's "Telepost" (see Plaintiff's Memorandum of Points and Authorities, at 30, United States v. USPS, No. 81-3206 (D.D.C., filed December 30, 1981)).

The private sector has established that it is willing and able to serve the expansive electronic message marketplace. There is simply no indication that a competitive industry structure will fail to serve adequately the demand of the consuming public. Moreover, there has been no demonstrated public policy justification for USPS competition with the private sector in the provision of electronic message service. There is simply no need for USPS competition with the private sector in this field of business.

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III. POSTAL SERVICE COMPETITION WITH THE PRIVATE SECTOR IN THE ELECTRONIC MESSAGE SERVICES MARKETPLACE IS IMPROPER

It is the basic premise of this nation's free enterprise system that goods and services should be produced by the private sector in open and competitive markets. Similarly, it has been long established that government should procure its goods and services from the private sector and ought not to compete with private enterprises. This principle is recognized in OMB Circulars A-76 and A-121. As the Director of the Bureau of Competition of the Federal Trade Commission stated in October 22, 1981 testimony presented to the House Subcommittee on Goverment Information and Individual Rights:

> Government enterprise should be viewed as the last alternative. Government should engage in enterprise activities only in the rare instances where it is clear that the private sector is incapable of producing necessary or highly desirable goods or services in an acceptable manner (at 2).

The electronic message services marketplace specifically and the computer services and communications marketplaces generally are dynamic, competitive and innovative. Given the track record of the computer services and communications industries, this sector of the nation's economy is perhaps the least likely to warrant government enterprise. As demonstrated previously, the private sector has given every indication that it is able to and will serve the electronic message service marketplace in an efficient and desirable manner.

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Despite this, the USPS, a government-owned entity, is preparing for large-scale entry into the electronic message services business. As stated well by the United States Department of Justice and the National Telecommunications and Information Administration of the United States Department of Commerce in joint comments in the E-COM Docket:

> The proposed E-COM service is, potentially, the leading edge of substantial policy change, since it clearly presages further and extensive involvement of a substantial federal government enterprise in what possibly may otherwise prove to be a dynamic and competitive field (at 8).

ADAPSO opposes Postal Service competition with the private sector in provision of electronic message services to the public. Such competition is simply unnecessary and would disrupt if not eliminate the competitive marketplace forces that foster efficient allocation of resources, the highest quality for the lowest price, innovation and free market entry. USPS competition in this marketplace is therefore improper; it flies in the face of the long-held principle that government ought not to compete with the private sector. Moreover, USPS diversification into the electronic message services business will involve the USPS in a technology-intensive service which falls outside the postal monopoly and to which the USPS can profess but limited expertise.

Accordingly, ADAPSO opposes USPS provision or resale of Generation III or end-to-end electronic messages services, USPS provision or resale of Generations I and II services including E-COM and EMSS, and USPS provision or resale of post office-to-post office transmission

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services. ADAPSO believes that the Postal Service should rely on the private sector for provision of data processing and conversion services. Additionally, ADAPSO opposes the entirely inappropriate extension of the Private Express Statutes so as to bring within the postal moncpoly end-to-end electronic message services, the electronic transmission portions of the Generations I and II message services or any electronic message service involving any component of physical delivery of hard copy information.

The Postal Service would do well to remain attentive to its traditional role of receiving hard copy and delivering it to the addressee. There is increasing need for the USPS to concentrate its resources on its traditional role. Postmaster General Bolger, in October 5, 1981 hearings before the House Subcommittee on Government Information and Individual Rights, testified that the volume of "hard copy mail" will grow for many years and that electronic message services will not supplant postal services (at 1). In fact, the growth of Generations I and II electronic message services will intensify the need for the Postal Service's local distribution facilities.

The USPS could play a major role in the electronic message services business by capitalizing on the innovations of the private sector in this field. Generations I and II electronic message services require a capability to deliver hard copy output to recipients who do not have terminal devices in their homes or places of business. The USPS may provide the space and operations

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personnel to enable those telecommunications and computer services firms offering electronic message services to input messages electronically to a destination post office utilizing a vendor-provided, dedicated or shared, terminal device capable of conversion of electronic messages into hard copy. Having provided the space and personnel necessary to accommodate this input and conversion by the private sector, the USPS would then accomplish physical delivery through its local distribution facility.

This would preclude USPS investment of huge sums for development and purchase of computer systems, printers and terminals; it would obviate the need for procurement and operation or resale by the USPS of telecommunication links between post offices and between customers and post offices. Moreover, this scenario would avoid improper USPS provision of end-to-end electronic message systems, transmission services, conversion services, computer services and the like. Instead, the Postal Service would be able to make available to electronic message service users and providers its unique monopoly distribution facilities. This role would stimulate the Postal Service's traditional business and its labor force of letter carriers. The Postal Service would then be a catalyst encouraging the development of flexible and innovative electronic message services funded by the private sector.

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IV. POSTAL SERVICE ACTIVITY IN THE ELECTRONIC MESSAGE SERVICES MARKETPLACE, IF PERMITTED, SHOULD BE PRO-COMPETITIVE

Serious threats to competition may arise should the USPS be permitted to enter the electronic message services business with no restraints on the manner of its entry. As a government-owned and regulated monopolist engaging in a competitive marketplace, the USPS will have substantial opportunities to subsidize its competitive offerings in the electronic message services market with resources and revenues derived from its letter delivery monopoly or through the Treasury's subsidy of the Postal Service as a whole. Such cross-subsidization by the USPS may well result in significant economic harm including predatory or below-cost pricing that drives independent competitors out of the market, and discouragement of market entry by private entrepreneurs who cannot compete with organizations having governmentally guaranteed revenues. Cross-subsidy may also result in unearned, excessive monopoly revenues derived from traditional postal customers. The effect of all this in the marketplace is unfair and decreased competition which eliminates those market forces that work to ensure the most efficient and desired electronic message services.

Another competitive problem of unrestricted USPS entry into the electronic message services marketplace involves the unique, monopoly hard-copy distribution facilities of the Postal Service. Should the USPS be permitted to become a communications carrier or

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a resale carrier in competition with the private sector, it will have tremendous incentive to deny access to its local distribution facilities to those competitors which prefer to employ their own arrangements for electronic message transmission rather than using the facilities provided by the Postal Service. Similar competitive hardships will accrue should the USPS deny access to its monopoly distribution facilities to certain firms or provide for access on a discriminatory basis.

The problems of potential cross-subsidy and denied or discriminatory access led the Carter Administration and the United States Senate to the endorsement of certain conditions on the manner of USPS involvement in competitive electronic message services. In its July 19, 1979, position paper on this matter, the Carter Administration stated that USPS competitive activity should not be subsidized by tax money or by revenues from other USPS services. The position paper also expresses the view that USPS electronic message services should be established as a separate entity for accounting and ratemaking purposes to ensure competitive operation and to avoid cross-subsidization. The Administration also required the USPS to "make its delivery services available to all electronic carriers at the same rates as those it charges itself" and "to ensure that interconnection with the mail delivery system is available to all companies...." The PRC, in its initial Decision in the E-COM Docket, echoed these access and interconnection requirements (at 98-100 and Appendix C).

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In Section 204(b) of S. 898, passed by the United States Senate on October 7, 1981, the USPS was permitted to engage in the electronic delivery of messages to non-affiliates, by resale or otherwise, but only through a separate organizational entity fully described in Section 204(b)(2) and structured to prevent operational cross-subsidy. Section 204(b) also required this separate entity to conduct business with the USPS on the same basis that business is conducted with non-affiliates, without any discrimination or preference arising out of affiliation. It should be noted, however, that S. 898 itself and an extended Senatorial colloquy established that neither the bill nor those sections pertaining to the USPS would permit the USPS to compete with the private sector in provision of electronic message services and that Congressional authority to do so must be obtained before the USPS may undertake to engage in these activities.

Notwithstanding these directives and general pro-competitive considerations, it appears that E-COM will be subsidized by other USPS services. The actual costs of the current E-COM system are significantly greater than the cost estimates relied upon by the Postal Rate Commission when it established current E-COM rates and fees in its Recommended Decisions. Initial estimates of the total capital investment for the E-COM system came to $7.4 million. The January 16, 1981 contract between the Postal Service and RCA for the E-COM system provides for USPS expenditure of at least $38.6 million. Despite this dramatic difference, the current E-COM rates and fees are those established over two years ago when estimated capital investment totaled less than one-fifth of current expenditures and when the first class postage fee was 15¢

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per ounce. E-COM rates and fees are not compensatory and will require subsidization from Treasury or other USPS service revenues. It is also clear that, unless compelled, the Postal Service will not take the initiative to adjust its E-COM rates and fees to reflect actual costs and first-class postage (see Plaintiff's Memorandum of Points and Authorities, at 27, United States v. USPS, No. 81-3206 (D.D.C., filed December 30, 1981)).

Improper cross-subsidization may also result should the USPS incur attributable, assignable and residual costs of the E-COM venture which have not been reflected in the rates, fees and capitalization base for E-COM. The Postal Service has already committed significant managerial and administrative resources to the E-COM program on an apparent non-compensatory basis. More than 20 managerial employees from USPS have been diverted to E-COM efforts. The Postal Service has undertaken building modifications and postal personnel training to accommodate E-COM program demands. (See Comments of the USPS on the PRC's Notice of Inquiry in Remanded Proceedings, Docket No. MC78-3, at 3-4 (July 28, 1981)).

In addition to proscription of USPS cross-subsidization of E-COM activities, executive and legislative directives have demanded universal and non-discriminatory access to the local distribution facilities of the Postal Service. The E-COM telecommunications connections arrangements propounded by the USPS do not comport with these directives (see 46 Fed. Reg. 50875-82; 46 Fed. Reg. 62268-73). Rather, distinct preferential access arrangements are guaranteed AT&T by the USPS and the small or low-volume E-COM participant is penalized.

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It would appear, although the matter is far from clear, that all capable companies including computer service vendors are permitted to obtain dedicated access to SPO facilities. Each SPO, at the inception, will have six input ports or access facilities for interconnection. Three of these ports will be dedicated and available only to USPS-authorized E-COM carriers, including AT&T. Surplus demand for dedicated ports will be diverted to public "dial-up" ports until such time as additional dedicated ports are available. The remaining three ports of the initial six at each SPO (and half of all SPO ports installed by the USPS) will be public or dial-up and available only through connection accomplished by the "nation-wide public switched telephone network", namely, AT&T.* Although E-COM carriers using dedicated ports may engage in unrestricted sharing of these access facilities, the carriers utilizing dedicated ports are limited to one such port at each SPO per carrier until all initial requests for ports have been granted.

AT&T has obtained guaranteed interconnection with the SPO's through three of the six ports initially available at each SPO. Further, AT&T may compete with other E-COM carriers for one of the three remaining dedicated ports at each SPO. These competing carriers, however, are limited to one dedicated port per carrier, although sharing arrangements may be devised. It is clear that the USPS interconnection arrangements discriminate unfairly and overwhelmingly in favor of AT&T to the competitive detriment of other E-COM participants.

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* The terms and conditions of the January 8, 1982 settlement of the AT&T monopolization case, in which AT&T was required to divest its local operating companies and local exchange services, would appear to require drastic revision of the E-COM interconnection arrangements published by the Postal Service.

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Moreover, competing E-COM carriers must provide their own telecommunications circuits and connection equipment, including modems and data service units for each SPO. On the other hand, the Postal Service will make available all of the telecommunications equipment and services required at each SPO to permit AT&T dial-up access, including protocol boards, hardware, software, modems and network connections. This arrangement again discriminates in favor of one E-COM carrier, AT&T, over others.

The USPS has required that a minimum of 200 separately addressed messages be transmitted to the destination SPO at any one time. The USPS will process less than 200 messages, but the sender will be billed at the minimum rate for each transmission, i.e., the rate for 200 messages. This hampers E-COM participants of small size and those which serve low-volume or remote geographic areas and places such carriers at a competitive disadvantage vis-a-vis AT&T and larger E-COM carriers.

It is ADAPSO's position that if the USPS is to be permitted to engage in the competitive electronic message services marketplace, it should compete fairly without benefit of cross-subsidy derived from its regulated status. This may be accomplished by requiring the Postal Service to conduct its entire competitive activities through a subsidiary with stringent accounting and structural separation requirements designed to detect and nullify opportunities for cross-subsidization and other competitive abuses. ADAPSO also believes that the USPS should be required to provide interconnection with its monopoly distribution facilities to all able and willing companies, including computer service firms, on a fair and non-

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discriminatory basis and under the same standards, requirements and charges the USPS imposes on itself for E-COM service. Unless a competitive USPS structure for entry into the electronic message services business is assured and unless universal and non-discriminatory access to the Postal Service's monopoly distribution is guaranteed, there will be unfair and decreased competition in the electronic message services marketplace. Denial of fair and non-discriminatory access and improper cross-subsidy may well open the entire marketplace to USPS domination as private sector firms are either driven out or deterred from entry.

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CONCLUSION

The adverse competitive effects of unrestricted USPS diversification into the electronic message services business threaten an efficient and responsive marketplace. This is especially unfortunate because entry by the Postal Service into this marketplace is unnecessary and improper in the first place.

The private sector has demonstrated its willingness and ability to serve the existing and eventual demand for electronic message services. In fact, there has been no demonstration that enterprise in this sector of the economy by a government-owned and regulated monopolist is warranted or desirable in any sense. Accordingly, Postal Service competition with the private sector in this field is improper. For this reason, ADAPSO's position is that the Postal Service should not be permitted to compete with private organizations in provision of electronic message services to the public and that the Private Express Statutes should not be extended to cover electronic message services involving any component of physical hard copy delivery.

The Postal Service should concentrate on meeting the increasing demand for its traditional services of receipt and delivery of hard copy mail. By resisting competition with the private sector and by fostering private sector electronic message services, the Postal Service will be able to join its unique distribution facilities and labor force with private sector innovation to form a pro-competitive partnership that serves the consuming public in an efficient and desirable manner.

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B. LETTER FROM J. WILLIAM ROBINSON, DATED MARCH 4, 1982, SUBMITTING STATEMENT ON BEHALF OF BANK STATIONERS ASSOCIATION, INC.

JOHN H. HARLAND COMPANY

BANK STATIONERS

J. WILLIAM ROBINSON
PRESIDENT

March 4, 1982

The Honorable Glenn English
United States House of Representatives
104 Cannon House Office Building
Washington, D.C. 20515

Dear Rep. English:

Re Hearings on H.R. 4758

I have enclosed a written statement on behalf of the Bank Stationers Association, Inc., which I request be included in the record of your hearings on H.R. 4758 and the problem of government offerings of data processing services at below cost in competition with the private sector.

We strongly support H.R. 4758, although we believe it should be amended to apply expressly to the Federal Reserve System.

If our Association can help in any way in your efforts to enact this legislation, please telephone me.

Sincerely,

J. William Robinson

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Statement of J. William Robinson

This statement is submitted on behalf of the Bank Stationers Association, Inc. (hereafter referred to as "BSA") and on behalf of my company, John H. Harland Company. The members of BSA include virtually all the printers of personalized paper checks in the United States. John H. Harland Company, a member of BSA, is a large, publicly-held check printer, but many of the approximately 50 members of BSA are small, privately-held companies.

BSA and John H. Harland Company support legislation to prohibit the Federal Reserve System from using public funds to subsidize the prices it charges for automated clearing house ("ACH") services. The bill introduced by Rep. English, H.R. 4758, is a step in the right direction, and we support this bill in principle. We believe, however, that H.R. 4758 should be amended to apply expressly to the offering of ACH services by the Federal Reserve.

We are not opposed to the Federal Reserve System operation of ACH system. Rather, we are only against the large subsidy now given to ACH services by the Federal Reserve System. The members of BSA have no objection to full and fair competition between paper checks and the paperless ACH system, but we vigorously object to the use of public money to subsidize our competition.

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The subsidy now given to ACH services by the Federal Reserve System amounts to an average of approximately 3.7¢ for each ACH payment. Thus, the total cost of this subsidy, assuming an annual volume of 230 million ACH payments, is approximately $8.5 million.1/ Although the expenditure of this money has never been approved by Congress, it ultimately comes out of the United States Treasury and the pockets of taxpayers.2/

It is ironic that Chairman Volcker has recently admonished Congress that the solution to high interest rates is to cut the deficit, while the Federal Reserve System has itself acted to increase the deficit through this subsidy.

The subsidy of ACH services by the Fedral Reserve System is contrary to the public's interest because it entrenches the monopoly of ACH services now held by the Federal Reserve System. In October 1981, John F. Lee, who is Executive Vice President of the New York Clearing House Association, testified before this Subcommittee that the very existence of the ACH operated by his Association was "threatened" by the subsidized fees charged by the Federal Reserve System.

1/ These figures are calculated based on the Federal Reserve System's 1980 PACS Expense Report.

2/ The earnings of the Federal Reserve System, which consist of interest paid on government securities it holds, are paid over to the Treasury. Therefore, the cost of this subsidy decreases the receipts of the Treasury and increases the burden on taxpayers.

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As Mr. Lee noted, these fees prevent a privately-operated ACH from recovering its costs. Thus, the subsidized fees have the inevitable effect of eliminating all private competition with the Federal Reserve System.

A monopoly of ACH services held by the Federal Reserve System, like any monopoly, has several deleterious effects. Possibly the most serious is that a Federal Reserve System monopoly will drastically slow the rate of technological innovation in the electronic transfer of funds. In 1977, William Baxter, who is now Assistant Attorney General in charge of the Antitrust Division of the Justice Department, warned against any monopoly of ACH services:

> For the present the most important policy objective, in our view, is to assure that no governmental barriers to private entry and experimentation are created. In this regard, the most threatening prospect is that of government provision of on-line clearance services unaccompanied by charges which reflect the full costs of such services.
> Whether technological advances occur rapidly or only relatively slowly will depend in significant part upon the relative intensity of rivalry that prevails among suppliers of EFTS services. If, to take an extreme example, EFTS took the form of a single, nationwide, totally standardized activity, administered by the Federal Reserve System for example, it seems highly probable that the rate of technological change would be relatively slow . . . . One of the major incentives for investment in the discovery of new technologies, namely the opportunity for the innovative depository institution to capture additional market share, would be eliminated.3/

3/ W. Baxter, P. Cootner, and K. Scott, Retail Banking in the Electronic Age, 77, 85 (1977) (emphasis added).

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The Federal Reserve System defends its subsidy on the ground that it is only attempting to increase the volume of ACH payments, and that once the volume reaches a level acceptable to the Federal Reserve System the cost of each ACH payment will be sufficiently low to permit competition.4/ This is wholly specious. First, the Federal Reserve System has consistently refused to set a date for the end of its subsidy. Second, in past years the growth of ACH volume has never even aproached the Federal Reserve System's projections. Finally, and most importantly, once ACH volume reaches a level acceptable to the Federal Reserve System and the subsidy is eliminated, then the Federal Reserve System will be so completely entrenched as a monopoly that it cannot be dislodged.

The fundamental question is whether a government subsidy is needed to develop the ACH as a payment mechanism. The National Commission on Electronic Fund Transfers concluded in 1977 that the Federal Reserve System should charge for ACH services on a "fully allocated cost basis" and thus ruled out any subsidy.5/ Moreover, the Federal Reserve System has never produced even a shred of evidence to support its insistence on the need for a large subsidy.

4/ See testimony of Theodore E. Allison, before the House Subcommittee on Government Information and Individual Rights, p. 8 (October 22, 1982)

5/ EFT In the United States: Policy Recommendations and the Public Interest (Final Report of the Nat'l Comm'n on Electronic Fund Transfers), p. 215 (1977).

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In light of the clear disadvantages of the subsidy of ACH services, and the absence of any showing by the Federal Reserve System that the private sector could not develop an ACH System on its own, we conclude that Congress should prohibit this subsidy by new legislation.6/

We believe that H.R. 4758, in its present form, may not prohibit the subsidy to ACH services. This Subcommittee should consider an amendment to H.R. 4758 that would make the provisions of §(h)(3) of H.R. 4758 expressly applicable to ACH services offered by the Federal Reserve System. With such an amendment, H.R. 4758 would have the strong support of BSA and its members.

J. William Robinson

6/ The Monetary Control Act of 1980, 12 U.S.C. §248a, is interpreted by the Federal Reserve System to permit the subsidy of ACH services. This interpretation is flatly contrary to the plain words of the statute and clear legislative history. Nonetheless, given this interpretation, new and specific legislation is necessary.

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C. LETTER FROM THOMAS R. DONNELLY, JR., ASSISTANT SECRETARY FOR LEGISLATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES SUBMITTING STATEMENT

DEPARTMENT OF HEALTH & HUMAN SERVICES — Office of the Secretary

Washington, D.C. 20201

APR 1 1987

APR 3 [illegible]

The Honorable Glenn L. English
Chairman
Subcommittee on Government Information
and Individual Rights
Committee on Government Operations
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

We are submitting a statement for the record for your February 25 hearing on "Government Enterprises in the Information and Communications Services Field." We understand that issues affecting this Department were raised at the hearing. The enclosed statement addresses these issues in relation to the National Library of Medicine and the National Institute of Mental Health. My staff has discussed the submission of this statement with Mr. Edward Gleiman of your Subcommittee staff.

Thank you for the opportunity to outline the Department's activities in these two areas. I hope this information is helpful to your Subcommittee's deliberations.

Sincerely,

Thomas R. Donnelly, Jr.
Assistant Secretary
for Legislation

Enclosure

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SUBMITTED BY THE

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Library of Medicine

In the United States, the task of collecting and organizing biomedical literature published throughout the world has been assigned to the National Library of Medicine (NLM) by Congress. Section 382 of the Public Health Service Act specifically directs the NLM to acquire and preserve library materials pertinent to medicine, to organize these materials by cataloging and indexing, to publish the resulting catalogs and indexes, to lend library materials, and to provide reference and research assistance. This section enacted into law the authority for what the Library had, in fact, been doing for over a century when, as part of the U.S. military establishment, it served as a de facto national medical information resource.

The NLM is governed by a Board of Regents. This Board consists of top Federal health officials and leaders of American science, medicine, and medical librarianship. The Board advises the Secretary on matters of policy affecting the Library. Section 382 specifically empowers the Secretary, with the advice of the Board, to establish charges for services provided by the Library.

Background

The literature of biomedical research and medical practice is a national resource. This literature has doubled in size about every 10-15 years for the last 50 years. Biomedical information is a resource that, unless carefully cataloged and systematically indexed, would be impossible to utilize effectively. An unindexed collection of biomedical literature would be like an unalphabetized dictionary.

The role of the National Library of Medicine is to produce the indexes and catalogs that lead the searching reader to what he needs. Since 1879, Index Medicus has been the standard guide to the periodical biomedical literature of the world. Published by the National Library of Medicine, printed and distributed through the Government Printing Office, Index Medicus is issued monthly and cumulated annually. Over 6,000 institutions around the world pay $160 a year to subscribe to Index Medicus; some 5,000 pay $200 for the annual cumulation. The number of articles indexed annually in Index Medicus has grown from 20,000 to 250,000 in the last century, and the number of journals indexed from 600 to 2,600 over the same period.

The regular and timely publication of such a large number of references would not be possible without computer assistance. The Library's pioneering computer-based system, MEDLARS (Medical Literature Analysis and Retrieval System), was begun in 1964. The Library is now developing an improved system, known as MEDLARS III, which will automate a number of internal Library technical processing functions.

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Originally used for publication of the Index Medicus and other bibliographies, MEDLARS soon proved valuable also for allowing individual searches of its assembled store of references. Eventually, its search capability evolved into an interactive network whereby a user could enter a bibliographic request at a local terminal and receive an immediate response in the form of a list of references and abstracts from NLM's computers. This "online" service, called MEDLINE (MEDLARS Online), was begun in 1971.

Today, in the United States, some 1600 institutions are members of the MEDLINE network. Last year some 2 million searches were conducted on the MEDLINE database (and a number of more specialized subset databases that have grown up around MEDLINE). The resources of the Library's comprehensive collection and the results of its laborious indexing and cataloging of the literature may thus be shared rapidly and conveniently with health practitioners, scientists, and educators around the nation.

In addition to direct online access, NLM shares its computerized resources by making its computer tapes available to commercial information vendors. In this country two such vendors, Lockheed's DIALOG and Bibliographic Retrieval Services, Inc., lease NLM tapes to provide online MEDLINE services to their own customers. NLM also leases MEDLARS tapes (or, in some cases, provides direct online access) to permit medical institutions in 14 other countries to offer MEDLINE services.

Over the years the Library has supported the national effort to disseminate medical information by providing grants for research, training, resource building, and regional library services. Since the passage of the Medical Library Assistance Act in 1965, NLM has awarded more than $125 million to support these activities. In addition, NLM has spent more than $100 million with the U.S. information industry during this period. These funds went to systems development companies, publishers, small businesses that index the medical literature, and firms that perform keyboarding, microfilming, and other information-related activities. The private sector has also received funds from NLM to study the information process. Results of these studies have been used to guide and improve NLM's information services.

The Pricing of Services

None of NLM's MEDLARS-related services is provided without charge. In accordance with its legislative mandate, cited earlier, the Board of Regents has advised the Secretary that user charges are appropriate for MEDLARS services, whether provided online, through leasing arrangements with commercial vendors, or through international arrangements.

Online. The current fee for accessing MEDLINE directly from the National Library of Medicine is in the form of a per-hour "connect" charge. Network institutions pay $22 for each hour they are connected to NLM's computers during prime time (10 a.m. to 5 p.m. Eastern Time) and $15 per hour during nonprime time. In addition, there is a charge of 15¢ for each page of "offline" prints, usually the result of a very large retrieval that would be expensive to print online at the terminal.

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Leasing. The current charge for leasing NLM's computer tapes is $20,000 per year, plus a per-hour charge of $4 and a fee of 1¢ for each reference retrieved. This new schedule went into effect on January 1, 1982. The commercial information vendors who lease these tapes then charge their customers at a rate that will recover these costs and also return a profit to the company. In the case of Bibliographic Retrieval Services (BRS), for example, the current charge to their customers is $26 per hour for access to MEDLINE. Considering that BRS provides certain enhancements to MEDLINE, this charge is quite competitive with the Library's schedule of $15/22 per hour.

International. NLM charges institutions in 14 countries the same rate as domestic U.S. users. The Library receives its compensation, however, in the form of indexing services provided either directly by the foreign counterpart's own indexers or by contracting with American commercial indexers, mostly small businesses.

Charges assessed for direct online usage and for the leasing of tapes by domestic vendors are billed and collected by the Department of Commerce's National Technical Information Service (NTIS). In fiscal year 1981, some $2,700,000 was collected and, after NTIS paid the expenses associated with providing the services, NLM returned about $300,000 to the U.S. treasury.

The Board has recommended that MEDLARS services be priced so as to recover all costs associated with: telecommunications, computer usage, network management, training, keyboarding, accounting and billing, and such administrative costs as printing, travel, postage, and overhead. These elements represent the true costs to NLM of providing access to MEDLARS. The Board has advised that charges should not attempt to recover costs associated with the basic functions of the Library, including the purchase of books and journals and cataloging and indexing, since these basic functions are mandated by law and would be carried out by NLM even if there were no MEDLARS system. Over the years, NLM has reported on this cost-recovery method to Congress.

Another aspect of pricing NLM's services is the practice of charging all online users the same rate. "Equal access" to all users has long been a goal of the NLM, not only for different categories of U.S. users but for health professionals who are distant from the Library or isolated from the major medical centers. NLM's network members are a heterogeneous group, and include medical schools, hospitals, research foundations, government agencies, and commercial users such as drug and chemical companies. This last category constitutes only about 11 percent of all MEDLINE usage at NLM. The Library believes that all health-related use of its sytems ultimately benefits the American public.

HHS Review

As part of the Department's implementing responsibilities under the Paperwork Reduction Act (P.L. 96-511), we are conducting an extensive review of HHS clearinghouses that will include examining the role of the Library as a repository and disseminator of published biomedical information, its cost to operate its data processing center, and its policies for setting user fees. This review, which began in FY 1982 and will conclude in FY 1983, builds upon previous related reviews performed by the GAO and the Office of Technology Assessment.

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National Institute of Mental Health

In 1961, the House Labor-Health, Education, Welfare Appropriations Committee spoke to the need ". . . to bridge the gap between research findings and utilization of information. . ." with respect to the Department's mental health activities (H.R. Rep. No. 393 87th Cong., 1st Sess., 1961, p.27). In that same report, the Committee expressed its hope that the efforts which the Department made to disseminate its research information by all appropriate means would extend ". . . not only to the professionals in the field but others such as the various community agencies, including schools; but also the public at large" (H.R. Rep. No. 393 87th Cong., 1st Sess, 1961, p. 27). This congressional concern led to the creation of the National Clearinghouse for Mental Health Information to which funds were first provided in 1963.

The Clearinghouse developed and employed the most advanced techniques of information storage and retrieval; it was the first computerized data base in this area and has been used to respond to inquiries since 1963 — and its data base was fully operational by 1965. The Clearinghouse computerized system integrates an acquisitioning system for the mental health library and a general abstracting function.

During 1979, the Clearinghouse performed approximately 18,000 searches for health and mental health professionals; administrators of hospitals, community mental health clinics, and other organized care settings; researchers; and grantees. An average search took about ten days to deliver to the requester, free of charge.

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The primary users of the NCMHI data base are mental health professionals, not pharmaceutical companies or other corporations. A review of the FY '81 users reports from the information broker offering the NCMHI data base reveals that 97.36 percent of the users were hospitals and university or medical libraries, 2.21 percent were corporations, and only 0.43 percent were pharmaceutical companies.

The information provided is used to aid mental health research and to provide better mental health care. The ultimate beneficicary of the NIMH data base is the general public — those who provide support for this valuable data base.

The Department of Health and Human Services recognizes that the broad issues surrounding the appropriate role of the government in providing bibliographic information services, cost recovery for those services, establishment of reasonable user fees, and possible competition with the private sector are important ones deserving closer examination. As part of the Department's responsibilities under the Paperwork Reduction Act (P.L. 96-511), we are conducting an extensive review of these identical issues with regard to the National Library of Medicine as noted earlier in this statement. When the Department completes its review of NLM we will apply any policy decisions resulting from those findings to information centers throughout the Department.

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BRS's own study (BRS Bulletin, Vol. 4, No. 1, January 1980) indicates that the NCMHI's coverage of the cognitive processes, motivation, neurological and physiological aspects of mental illness or behavior, psychopharmacology, social and environmental aspects of mental health and manpower and training was particularly high in comparison to the APA coverage. However, the BRS study shows APA subject coverage to be stronger in industrial psychology, speech, language, communications and psychometric and experimental psychology information. The study also shows APA coverage outranks the NCMHI coverage of educational psychology, a field which is sparsely represented on the NCMHI file due to its ample coverage on the Educational Resources Information Center (ERIC) data base. Users of the NCMHI data base have said that it complements others available to them.

While the NCMHI data base has been provided to information brokers, and to the APA at duplication cost, it must be pointed out that the tapes provided contain "raw data" and require a substantial investment of time and resources by the recipients to reformat the tapes and make them compatible with the recipients' existing systems: therefore, the true cost to the recipients far exceedsthe fee paid to the government.

Like most data bases, the NCMHI data base serves a number of purposes: it monitors mental health research; it provides as by-products bibliographies and the GPO subscription journal Psychopharmacology Abstracts as well as the provision of computer searches for mental health professionals — many of whom are NIMH grantees, thus saving many hours on time-consuming library research which would otherwise increase the cost of individual grants.

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Since the stated intent of the Congress was to provide the information to anyone in the public sector who had a need for the data, the limited resources available to NIMH made alternative methods of dissemination a logical step. NIMH did not initiate that step, itself, however. It was through the urgings of the recipients and potential recipients of the data and their libraries that the private concern, Bibliographic Retrieval Services (BRS) made the request to NIMH for a copy of the data base. NIMH agreed to the request and is currently making the data base available to BRS for the cost of computer time in duplicating the data base on tape.

Other mental health data bases have developed since that of NCMHI. The American Psychological Association (APA) made a similar data base available to the public in about 1969. APA received a grant for development of the data base from the National Science Foundation, and according to APA's financial statement (June 1981), the APA communications program now operates in the black.

While the NCMHI and APA data bases draw from many similar journal titles, NIMH abstracts many more articles. NIMH selects articles from over 1,200 journals based upon eclectic guidelines, motivated by the philosophy that all viewpoints must be presented to the users. At a meeting of the Medical Library Association in June of 1978, the Mental Health Librarians Section encouraged information brokers to provide the on-line availability of the NIMH data base because they found the NIMH data base to be much more comprehensive than other available data bases.

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APPENDIX 2.—LETTERS SUBMITTED FOR THE RECORD

A. LETTER FROM SAUL HERNER, HERNER & COMPANY, DATED MARCH 31, 1982

HERNER & COMPANY
Progress through effective use of information
Established 1955

March 31, 1982

Representative Glenn L. English
Chairman, Subcommittee on Information and
Individual Rights
Committee on Government Operations
U.S. House of Representatives
13-349-C Rayburn House Office Building
Washington, D. C. 20515

Dear Congressman English:

I am writing to express my deep concern and dismay at the testimony of Robert S. Willard of the Information Industry Association regarding what he perceives to be competition by the National library of Medicine with Excerpta Medica in the dissemination of biomedical information.

I am the President of Herner and Company, a for-profit information and library consulting firm founded in 1955. For the past 11 years, our firm has performed, as a result of competitively awarded contracts, approximately one-third of the indexing and encoding for the National Library of Medicine's Index Medicus and the MEDLARS system, which are recognized internationally as the primary tools of biomedical information. We are one of several private-sector contractors--half of them small-business firms--that are involved in this work.

As a founding member of the Information Industry Association, I have served as its Secretary, Treasurer, and a member of its Board of Directors for seven years. I have written and published approximately 100 papers, reports, reviews, and four books on subjects relating to library and information science. My latest book, the second edition of A Brief Guide to Sources of Scientific and Technical Information, was selected by the Library Journal as one of the Outstanding Scientific and Technical Books of 1980. In March of this year, I received the 1982 Miles Conrad Award of the National Federation of Abstracting and Indexing Services.

Contrary to Mr. Willard's view, we consider the work of Herner and Company for the National Library of Medicine and other government clients excellent examples of innovative and competitive information services performed by the private sector on behalf of the government, the people, and the institutions of the United States. We are paid $3.12 for each publication we index and encode for Index Medicus and MEDLARS. I challenge Excerpta

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Medica or any other information service to meet this price for cost effectiveness.

Mr. Willard, in common with many other noninformation specialists, bases cost comparisons exclusively on computer connect-time charges. The cost or price of computer searching is only a minor part of the cost of information retrieval systems. The bulk of these costs go into: document screening, selection, descriptive cataloging, abstracting, indexing, editing, keyboarding, validating, and final data entry. I submit that one important reason that the Netherlands-based Excerpta Medica charges more for its products and services--aside from the high cost of competing with the oldest continuous English-language biomedical information tool in existence--is that it is less cost effective. If its costs were lower, it would be more competitive, although there is little that can be done to counteract the venerability and worldwide recognition of Index Medicus and MEDLARS.

One of the recommendations of the National Commission on Libraries and Information Science, in its report, Public Sector/Private Sector Interaction in Providing Information Services (February 1982), is that the Federal Government"...should make maximum use of existing resources and information delivery mechanisms..." In developing and implementing regional MEDLARS centers in existing medical libraries throughout the United States the National Library of Medicine has played a pioneering role in bringing this important concept to fruition. MEDLARS has brought forth many other important innovations in biomedical communications. It is much more than a conventional on-line computer searching service.

In his testimony, Mr. Willard states that the National Library of Medicine was founded in 1956. This is grossly incorrect. The National Library of Medicine was started in 1836 as the Library of the Army Surgeon General's Office. Its name was subsequently changed to the Army Medical Library, the Armed Forces Medical Library, and, in 1956, to the National Library of Medicine. What is now known as Index Medicus, the printed version of the MEDLARS system, was started in 1879. The Library and Index Medicus are by no means recent entrants on the biomedical information scene--the impression that Mr. Willard apparently seeks to convey.

In addition to our work for the National Library of Medicine, Herner and Company does all of the abstracting and indexing for the National Clearinghouse for Mental Health Information, and we operate the National Clearinghouse on Child Abuse and Neglect Information, as well as other clearinghouses. We perform cost-effective, technically proficient services under highly competitive conditions. In an average year, we process in excess of 150,000 publications for government and private-sector clients. I believe that the government, the people, and the economy are well served by what we and other for-profit contractors do to facilitate the flow of information.

Incidentally, the Clearinghouse on Child Abuse and Neglect Information is an excellent illustration of one important reason the government is heavily involved in information collection and dissemination. Very often, a product or service is not "commercially" viable and the private sector is not

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interested in producing or marketing it, even though it is critically needed. There are many other such examples.

As an entrepreneur in information services and products, I am keenly aware of the important role of the private sector not only in performing services such as those I mentioned but also in the packaging and marketing of government-generated information that the government is unable or unwilling to disseminate to the public. In 1977, after a careful study of the existing sources, such as the Federal Register, the Monthly Catalog of the Superintendent of Documents, the EPA's 102 Monitor (now defunct), Engineering Index, and NTIS, we found that there was no single, dependable index to Federal environmental impact statements and there was a demand for such a tool. We also found that there was no single place where one could go to obtain copies of impact statements. In response to this need and opportunity, we established EIS: Digests of Environmental Impact Statements as well as a subscription and single-copy service that provides microfiche copies of all Federal impact statements. As a result, through private-sector initiative and risk capital, all statements issued since the enactment of the National Environmental Policy Act of 1969 can now be searched on-line and copies of them can be purchased by all comers. But this was a service that was not being performed, and for which there was no prior tradition. This is quite different from the services being performed by the National Library of Medicine and Index Medicus. These have been a tradition within the biomedical community for well over a century.

It is regrettable that Mr. Willard did not consult with me and other members of the information industry who are conversant with the nature and operations of the National Library of Medicine and biomedical communication in general. If he had done so, his testimony might have been much more accurate and equitable. Ironically, one of the earliest themes of the Information Industry Association was that we should not "give away" our vital information resources to foreign nations. Given this early theme, the defense of a Dutch firm against an American institution and American information firms is discouraging, to say the least.

I would be happy to testify in further detail before the Subcommittee. I respectfully submit that Mr. Willard does not, and probably cannot, speak for my segment of the information industry.

Very sincerely yours,

Saul Herner

Saul Herner

Enclosure

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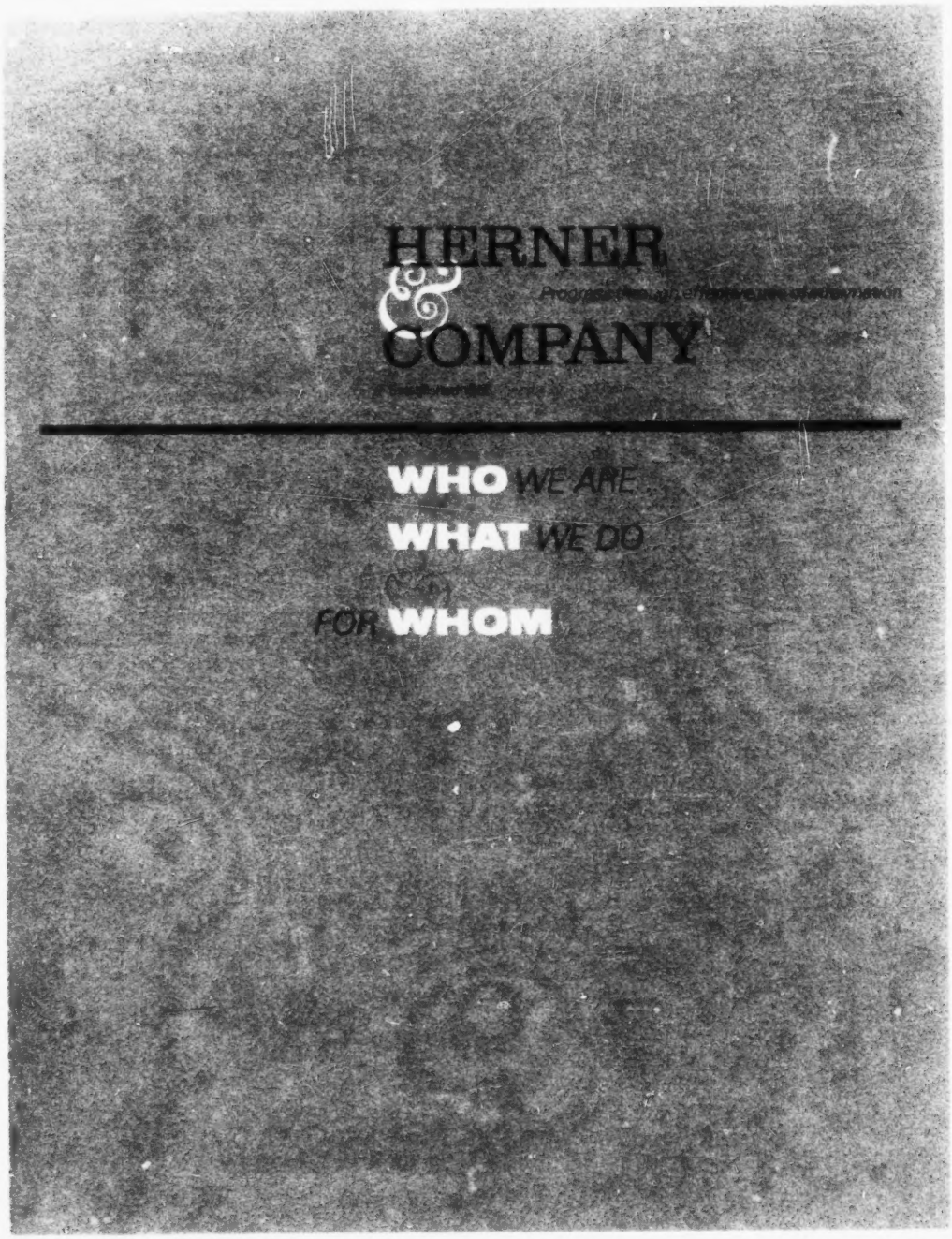

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WHO WE ARE

Herner and Company is the oldest library and information science consulting firm in the United States operating continuously under the same management. Since its establishment in 1935, the firm has earned a reputation as a pioneer and leader in the diverse fields comprising planning, operation, production, and evaluation of libraries, information systems, and related products and services. The firm's activities span the time spectrum from traditional cataloging to computer-based abstracting and indexing systems to integrated clearinghouses to national library and information networks.

Our staff of seasoned librarians and information scientists has learned and progressed in parallel with library and information science itself, as it has evolved from a relatively subjective art to a profession using rigorous, uniform methodologies and sophisticated systems and instruments.

We work aggressively to maintain our position in the forefront of our fields of expertise and to use every proven state-of-the-art technique and resource in serving the needs of our clients in government, industry, and nonprofit institutions.

Corporate Offices
1700 North Moore Street
Arlington, Virginia 22209
(703) 558-8200

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WHAT WE DO *(AND HAVE DONE)*

Abstracting, Indexing, and Cataloging
In a typical year, we abstract or index (or both) more than 125,000 items—journal articles, books, reports, project descriptions, and other literature—in biomedicine, behavioral science, physical and engineering science, law, and other subjects. Since our founding, we have processed in excess of 2 million items. Our staff conforms to the highest abstracting and indexing standards. We helped create many of them. In most cases, we also produce catalogs in card, printed, or machine-readable form.

Cataloging and Indexing Authorities
One of the firm's earliest activities was the design of classification systems tailored to specific collections and uses. Another is the development of customized thesauri of indexing and searching terms. These continue to be significant areas of our services.

Data Base Creation
We organize or reorganize manual files or collections for on-line computer searching and manipulation. INSIDE INFORMATION™, our proprietary data base service, has created a broad range of private and public files for use on client premises and for searching via commercial vendors.

Information System Design
We have designed, monitored, and placed into operation 20 major information systems for government agencies, industrial firms, and nonprofit organizations. In many instances, we also operate the systems and oversee the transfer of operations to the client's personnel.

Information Clearinghouse Operation
Among the national clearinghouses we have operated, are presently operating, or are helping to operate are the Clearinghouse on Child Abuse and Neglect Information; the National Clearinghouse for Smoking and Health; the National Clearinghouse for Mental Health Information; the Walter Reed Army Institute of Research Drug Development Support System; the National Clearinghouse for Drug Abuse Information; the Cancer Chemotherapy Information System; and the NASA Scientific and Technical Information Facility, where we perform all document abstracting, indexing, and cataloging services.

Library Design
We have designed special libraries for industrial firms, colleges and universities, trade associations, and other clients. Our services have included physical layout, furniture and equipment specifications, collection development, staff recruitment and training, and systems and procedures development.

Network Design
Among the national and regional networks we have designed are the Veterans Administration Library Network (VALNET), which ties together all of the libraries of the Veterans Administration; the New England Technical Services (NETS) network, providing information to New England industrial firms; and a national medical library network involving the resources and services of government, college and university, hospital, and industrial libraries.

Data Entry
As an adjunct to our abstracting and indexing and data base creation activities, we provide computer-input keyboarding based on client coding and format requirements. In addition to conventional input keyboarding, we perform chemical structure typing and coding for the Walter Reed Army Institute of Research and various major pharmaceutical and chemical firms, feeding into their private chemical registry systems.

Readership and User Surveys
We are pioneers in the use of questionnaire and interview techniques to determine probable or actual modes and degrees of use of publications and other information products and services and to define the information requirements and information-gathering mechanisms and patterns of user groups. We have conducted more than 50 major studies in this area.

System and Program Evaluation
We were among the earliest practitioners and proponents of the evaluation of information systems on the macro (total) and micro (component) levels. On the macro level, we have adapted and applied in a variety of situations multiattribute utility theory (MAUT), in which evaluations are based on trade-offs between carefully developed sets of management and user criteria or objectives. On the micro level, we have performed analyses using such techniques as relevance:recall ratios for indexing systems, least-cost optimizations for acquisition programs, and Delphic techniques for the planning of resources and services.

Publishing Systems and Products
Through our project groups and our publishing division, Information Resources Press, we have developed and operated integrated systems combining data base creation, searchable tapes, index production, page composition, and the preparation of "header" information for microfiche. Among the publications for which we have provided these services are *Cancer Therapy Abstracts, EIS: Digests of Environmental Impact Statements, Current Awareness in Health Education, Child Abuse and Neglect Research, Child Abuse and Neglect Programs,* and the Corps of Engineers Dredged Material Research Program *Publication Index and Retrieval System.*

Directories and Source Compendia
Since preparing the first compendium of aerospace information sources to help start the NASA technical information program, we have prepared a long line of directories and source compendia. Recent examples are the *National Directory of State Agencies, A Brief Guide to Sources of Scientific and Technical Information, Selected Federal Computer-Based Information Systems,* and the pilot design of the Federal Information Locator System (FILS).

Education and Training
On our own initiative and on behalf of clients, we have designed and conducted courses in, *inter alia,* sources and methods for obtaining scientific and technical information; applications of computers to information systems and processes; and the evaluation of information systems. In addition to course syllabi, lectures, and demonstrations, we created and provided lecture notes and other background materials.

Query Response Systems
As part of our various clearinghouse projects, we have developed a computer-assisted system for logging, reviewing, tracking, selection of treatment, and processing of inquiries from lay and professional users, with appropriate forms and procedures. The system, which can be modified or adapted for varying requirements, handles *bibliographic* inquiries, which require literature searches; *technical* inquiries requiring consultant specialists; *repetitive* inquiries handled via prestocked pamphlets, publications, fact sheets, and other appropriate means; and *controlled* inquiries from members of Congress, agency heads, the Executive Office of the President, and other personages.

Reviews and Syntheses
An extension of our program for handling technical inquiries is our Review and Synthesis Service, which combines literature searches, interviews with experts, and other means to provide the basis for interpretive reviews and state-of-the-art reports.

Basic Research
To maintain our position in the forefront of library and information science, we conduct a continuing program of basic research in germane fields. The program is funded by the firm and outside agencies and organizations. Current investigations include: computer selection of terms for thesauri; use of MAUT in evaluating information systems; use of MAUT in evaluating environmental impact statements; analysis of the value of information (VOI) of search and other system outputs; computer analysis of psychiatric interviews; use of critical-incident techniques in the continuous monitoring of the information-gathering patterns and needs within program and discipline groups; use of Luhn autoencoding in the analysis of open-ended survey responses; and analysis of program information via retrieval techniques.

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AND FOR WHOM *(A PARTIAL LIST)*

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Air Force Systems Command
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American Committee for Liberation
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Ayerst Laboratories
BASF Wyandotte Corporation
Black and Decker, Inc
Bristol Laboratories
The Brookings Institution
Caless Associates
Center for Information Resources
Centers for Disease Control, Center for Health Promotion and Education
Chemstrand Corporation
Chrysler Corporation
CIBA Pharmaceutical Products, Inc
Colorado Department of Education
Committee for the Investigation of Copyright Practices
Committee on Scientific and Technical Information (COSATI)
Congressional Information Service
Control Data Corporation
Department of Labor
Department of the Interior
Harry Diamond Laboratories
District of Columbia, Public School System
Drexel University
EDP News
Educational Associates, Inc
Embassy of Iran
Environmental Science Services Administration
Epilepsy Foundation
European Productivity Agency
EXXON Research and Engineering Co
Federal Aviation Administration
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Federal Library Committee
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Institute of Textile Technology
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Japan Information Center for Science and Technology
Journal of Negro History
Kaiser Aluminum & Chemical Corporation
Knowledge Industry Publications
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Merck, Sharp & Dohme, Inc
MetroStudy Corporation
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Midwest Research Institute
Miles Laboratories
Morgan State College
National Academy of Engineering
National Academy of Sciences - National Research Council
National Aeronautics and Space Administration
National Agricultural Library
National Association of Home Builders
National Automobile Dealers Association
National Bureau of Standards
National Cancer Institute
National Center for Health Services Research and Development
National Center on Child Abuse and Neglect
National Clearinghouse for Drug Abuse Information
National Clearinghouse for Smoking and Health
National Commission on Product Safety
National Endowment for the Humanities
National Institute for Occupational Safety and Health
National Institute of Health Library
National Institute of Mental Health
National Institute of Neurological Diseases and Blindness
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National Science Foundation
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Naval Ships Systems Command
Naval Materiel Command
New England State Technical Services
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Office of Education, Department of Health, Education, and Welfare
Office of Pesticides, U.S. Public Health Service
Organization of American States
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Society of Photographic Scientists & Engineers
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Standard Oil Company (New Jersey)
Telcom Inc
Unesco
UNIROYAL Chemicals
University of Pennsylvania
U.S. Civil Service Commission
U.S. Postal Service
Veterans Administration
Walter Reed Army Institute of Research
World Bank
Xerox Corporation

Corporate Offices
1700 North Moore Street
Arlington, Virginia 22209
(703) 558-8200

Best Available Copy

B. LETTER FROM ROBERT S. WILLARD, INFORMATION INDUSTRY ASSOCIATION, DATED MARCH 17, 1981

Information Industry Association
316 Pennsylvania Avenue, S.E., Suite 400
Washington, D.C. 20003
202/544-1969
Cable: INFORMASSN WASHINGTON

May 17, 1982

Honorable Glenn English
Chairman, Subcommittee on Government
Information and Individual Rights
Committee on Government Operations
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

You have been sent a letter by Saul Herner concerning IIA's testimony on you bill, HR4758. I think the letter demonstrates that Mr. Herner fails to comprehend 1.) what your legislation would accomplish, 2.) the nature of IIA's testimony and 3.) the process by which Mr. Herner could have added his concerns to our testimony.

I have asked that Mr. Herner contact your Subcommittee to see that errors in his letter are addressed. It is my understanding that such action has not occurred nor is it anticipated. Accordingly, if Mr. Herner's letter is to appear in the hearing record on this bill, I would ask that you also include this letter and my response to Mr. Herner (enclosed). I am reluctant to engage in this debate between an industry trade association and a member of the industry; however, Mr. Herner's letter is so misleading that I don't believe it should remain a part of the public record unchallenged.

I appreciate your consideration of this request.

Sincerely,

Robert S. Willard

RSW:fh

Enclosure

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Elizabeth B. Eddison
Warner-Eddison Associates, Inc.
Andrew P. Garvin
FIND/SVP
James G. Kollegger
Environment Information Center, Inc.
Robert S. Newmeyer
The New York Times Information Group
Jerome S. Rubin
William J. Senior
Xerox Publishing Group
Roger K. Summit
DIALOG Information Services, Inc.
Leone Trubkin
Data Courier, Inc.

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Meetings Coordinator
Karen M. MacArthur

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Information Industry Association
316 Pennsylvania Avenue, S.E., Suite 400
Washington, D.C. 20003
202/544-1969
Cable: INFORMASSN WASHINGTON

April 23, 1982

Mr. Saul Herner
Herner and Company
1700 North Moore Street, #700
Arlington, VA 22209

Dear Saul:

As I am sure you anticipated, Paul has shared with me your letter of March 31 to him (and by copy to the entire Board of Directors) and your letter to Congressman English concerning IIA's testimony on H.R. 4758. It is unfortunate that you have chosen such a course of action. You have made so many misleading points, that I simply cannot allow your letters to stand on the public record unchallenged.

Let me summarize the position on the National Library of Medicine that was put forth in the Association's testimony. All we were saying is that when a government entity decides to engage in a commercial activity, such as offering online access to bibliographic records, it should do so in a fair way; the first step in attaining this fairness is to assure that the prices charged for the commercial offering recover the full costs that were incurred in bringing the product or service to the market, including costs the government paid to private sector contractors. There is nothing in the testimony which denigrates Herner and Company, or other companies, which indeed do provide "innovative and competitive information services." All we were saying was that when the government resells the fruits of your efforts, the cost should be recovered from the end user directly, not from the taxpayer generally.*/ We have not advocated that

*/Although I did not include it in the testimony on this occasion, I have frequently stated what I believe represents the position of the vast majority of IIA members. It is as follows: When a particular information product or service is needed, it should be offered by the private sector. If the government nevertheless does provide a product or service which the private sector is either offering or capable of offering, then it should abide by the same rules of the marketplace that constrain its private sector competitors.

If the product or service is not currently commercially viable, but it meets a public need (determined through open, public policy making mechanisms), the government should then step in, but very carefully. For example, it might offer some form of subsidy, either to the supplier or to the consumer, in the form of direct grants, tax expenditures, or other approach. If the private sector does not respond, then the government may take steps to offer the product or service itself, but it should do so by using, on a contractor basis, the resources of the private sector. Only in the rarest of cases — when there is no adequate bidder, or when the product or service is inherently governmental in nature — should the

(Continued)

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Dow Jones Information Services
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FIND/SVP
James G. Kollegger
Environment Information Center, Inc.
Robert S. November
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NLM abandon its valuable database, but rather that it plays by the same rules others in the marketplace must live with. In your involvement in the Association, six or seven years ago, you often expressed the same argument vis a vis not-for-profit information services.

You further go on to assert that we do not understand cost-comparisons. In fact, it is precisely because we do not make the comparison "exclusively on connect-time charges," as you imply, that we question the pricing policies of NLM. From the information I have seen, I believe that NLM does recover the marginal cost of making its databases available online. However, as we said in our testimony, it does not include in its recoverable costs, "any historical costs, costs associated with the editorial preparation of its products, including acquisition of the materials indexed, or some of the costs related to the computer systems and personnel necessary to store and retrieve these products." You and I cannot decide the relative merits of NLM versus Excerpta Medica. The marketplace should be allowed to do so. If NLM charges prices that reflect their true costs, the marketplace will determine the relative value of each, as well as the value of additional providers of biomedical information who would enter the market once the chilling effect of NLM's current, monopoly-like presence is removed.

The question of when NLM was founded does not change its current economic practices affecting the marketplace. What we addressed was that in 1956, Congress, as a policy making body, focused attention on the national collection of "scientific and other information important to the progress of medicine and to the public health" (42 USC 275), and, at that time, established NLM. We pointed out that we did not believe that Congress then or now expects the NLM "to aggressively market its information products and services in unfair competition with the private sector through new technologies."

However, the preexistence of NLM, whether it was established in 1836 or 1956, does not provide any justification for the unfair competitive activities our testimony was aimed at. Insinuated through your letter to Congressman English is a "we've always done it this way, and therefore we should continue" philosophy. This is not the test that should be used. The competition of the marketplace should be the first test of whether a particular enterprise is successful. Consumers don't necessarily need "the oldest continuous English-language biomedical information tool in existence." They need the best, most cost effective tool. Our point is that consumers have only a "choice of one" as long as NLM competes unfairly. Quite frankly, I infer from the vigor and rancor of NLM's opposition to the commonsense, simple requirement of true full-cost pricing, an acknowledgement of their inability to survive a competitive marketplace without the continuation of their current taxpayer-subsidized status. Your distinction between services such as your company provides in the environmental impact statement area and those which have a "prior tradition" is not a persuasive argument for the continuation of NLM's current practices.

government provide the product or service using its own personnel and facilities. In all cases, the government should formally establish periodic review, to assure that its presence in the marketplace doesn't freeze out the entry of innovative private sector offerings in later years.

Through equal competition among competitive sources the public is best served — in information as in other economic goods.

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You also raise a serious problem in the second to last paragraph of your letter. You inject the ad hominem argument, already frequently voiced by NLM leadership, regarding the foreign ownership of one of the companies concerned with the NLM issue. Excerpta Medica provides American consumers of biomedical information a solid and valuable service. It employs Americans and adds to the U.S. national income. It pays tax to American governments at local, state and national levels. And it creates the business opportunities for American information distributors and retailers that deliver Excerpta Medica products. Foreign ownership is not the question. Fairness in market opportunities is the issue. If we expect to negotiate with foreign governments (or their surrogates, such as the PTT's) to allow for free and fair trade in information and we expect to receive help from our private sector counterparts in these countries, we cannot allow our own government to engage in unfair practices simply because we fear competition from foreign countries. It is the position of IIA — in our policy statement on international information flow, which was adopted by the Board of Directors and the membership in 1979 — that "Prices for delivery of information should be primarily determined by natural market forces rather than political, geographical or nationalistic considerations." (Incidentally, if you seriously are concerned with the "give away" of our vital information resources to foreign nations, as you indicate in your letter, the bilateral agreements NLM has made with foreign countries is a more likely cause of concern as was briefly mentioned in our testimony.)

Finally, let me turn to the aspect of your letter that I found most offensive on a personal basis: you impugned my knowledge of the industry, you faulted me for failing to consult with you and others conversant with NLM, and you claim I am unable to speak for your segment of the information industry. Furthermore, you do this in a letter to a Member of Congress with whom I must continue to work on behalf of the industry, and you do it with absolutely no first hand knowledge of me or my capabilities.

It would do little good to engage in a detailed recitation of my experience in the area of information science, technology and policy. Suffice it to say that I have been deeply involved in these areas since before my graduation from college in 1966; moreover, the members of the industry who do work with me closely have never raised concerns over my industry knowledge with me personally, and certainly not in communications with public officials.

With regard to consulting with you and speaking for your segment of the industry: your failure to accept repeated opportunities to participate in the Association's dialogue which developed the position I presented is the real source of your current concern. I would be the first to admit that IIA does not do as good a job on notifying members of pertinent issues as I would like. I would like to be able to issue special "action alert" first-class letters or mailgrams to every member company when something is hot. Unfortunately, financial realities restrict us to using the Friday Memo as our principal means for alerting members to hot issues. In the case of NLM, this was done quite a few times.

> The subject was on the agenda for the Executive Interchange on June 22, 1981, which was enclosed with the June 5 Friday Memo. Ironically, this same issue contained notice that we had a review copy of an Office of Technology Assessment paper on NLM and MEDLARS and asked for member comments. You did not let us know then of your interest in the subject.

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I telephoned you personally to ask if you would attend the June 22 meeting (not because NLM was a topic, but just because of the general coverage of government issues we would be discussing.) You said you would, remarking on the convenient location of The Four Seasons Hotel. You, however, did not attend; if you had, you would have been fully briefed on IIA's involvement with the Hatch amendment on NLM, would have received copies of documents on the subject, and would have been able to put forth any views you held on the subject.

Later in the summer (August 7), we reported developments on the Hatch amendment on full cost pricing for NLM. We concluded the article "IIA has been working with some Member companies in support of the Hatch proposal over the past months. A copy of the proposal along with IIA's correspondence is available from IIA HQ." Again, we did not hear from you. At that time, Excerpta Medica was not a member; we were involved because of our pro-competition position.

At the Annual Meeting in Boston, by special arrangement, we added Martha Williams, chairman of the NLM Board of Regents, to a government session (and we announced the addition to all attendees at the opening keynote session.) If you had been at your industry association meeting, you could have expressed your point of view there. NLM was again mentioned in the Friday Memo at the end of the week of the Annual Meeting. You did not respond to this item either.

Most recently, in reporting on the February meeting of the Government Relations Committee in the February 19 issue of the Friday Memo, we announced the formation of a Task Force on NLM. If you had a point of view you wanted included in IIA's deliberations, membership on this body would be indispensable. We never heard from you.

The final result is that, given the number of times you received regular and personal notice of IIA's involvement in the NLM issue, you had plenty of opportunity to make your views known. The fact that you didn't — and then that you write to a Member of Congress and accuse us of not consulting with you and not speaking for your segment of the industry — is an outright travesty. I would think the least you should do is write Congressman English and correct the record on this point.

Moreover, if you are willing to commit your own efforts to the sorting out of the NLM issue (and related contractor issues) that you call for in your letter to Paul (and assuming, of course, that you bring your membership dues status up to date), I would encourage you to become involved in the shaping of IIA government relations policy. Don't just sit on the bench and yell at the referee when you think your teammate has called the wrong play!

Sincerely,

/s/Bob

Robert S. Willard

cc: IIA Board of Directors

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C. LETTER FROM RONALD P. QUAKE, PRESIDENT, INDIAN HEAD INFORMATION TECHNOLOGY GROUP, DATED APRIL 2, 1982

Indian Head

Information Technology Group
One Landmark Square
Stamford, Connecticut 06901
Telephone (203) 348-1664

Ronald P. Quake
President

April 2, 1982

Honorable Glenn English
Chairman
Subcommittee on Government Information
and Individual Rights
U.S. House of Representatives
B349B Rayburn House Office Building
Washington, D. C. 20515

Dear Mr. Chairman:

On behalf of the Information Technology Group (ITG) of Indian Head Inc., I would like your Subcommittee's hearing record to reflect that the Information Industry Association testimony on February 25, 1982, by Robert S. Willard and any subsequent communication from the IIA task force on the National Library of Medicine, does not necessarily represent our position concerning the National Library of Medicine's MEDLARS service.

ITG's Bibliographic Retrieval Services has been and continues to be a substantial vendor of MEDLARS. Given our long association with the use of MEDLARS, BRS is capable and willing to assist you directly in exploring possible legislative action affecting the National Library of Medicine.

I would be pleased to meet with you or your staff to discuss our position in detail should you desire additional information.

Sincerely,

Ronald P. Quake
President

Copy to Senator Orrin G. Hatch
Chairman
Committee on Labor and Human Resources
4230 Dirksen Senate Office Building
Washington, D. C. 20510

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D. LETTER FROM ERIC RIDDER, THE JOURNAL OF COMMERCE, DATED MARCH 5, 1982

The Journal of Commerce

NEW YORK

110 WALL STREET
NEW YORK, N.Y. 10005
(212) 425 1616

OFFICE OF THE
PUBLISHER

March 5, 1982

The Honorable Glenn English, Chairman
Government Information and Individual
Rights Subcommittee
House Government Operations Committee
104 Cannon Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

I commend you and the members of your Subcommittee for taking an interest in unfair Government competition with private sector information services. This is an issue about which The Journal of Commerce has more than a theoretical concern. For the past three years, we have devoted substantial resources and time to convince the Department of Commerce that it should not go into the export information business in competition with existing private sector services. It now appears that we have been successful, for the Department has just announced it is dropping its plans to build the Worldwide Information and Trade System (WITS).

Three years ago the Department of Commerce announced plans to build WITS, an on-line data system with information on U.S. exporters and potential markets abroad. The WITS data file on U.S. exporters would have virtually duplicated The Journal's Directory of U.S. Exporters. As you can imagine, we were not pleased with the idea of having a competitor subsidized by U.S. tax dollars. It seemed to us that it was fundamentally unfair for the Government to use tax dollars to build a data base which would duplicate our services and compete for our customers. Moreover, it also seemed a waste of tax dollars to spend several million dollars recreating an information system which already existed in the private sector.

Now after three years of effort on our part, it appears as though the Department has decided to drop the WITS proposal. The Departmentinstead will concentrate its resources on automating the in-house information programs used to support current Commerce programs. The Department will not develop a centralized data base, nor will it actively collect information for its files. We applaud this decision and commend the responsible policy makers at the Department.

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Our experience with WITS points up the need for a legislative or administrative policy prohibiting Government competition with the private information sector. Although we were ultimately successful on WITS, it was not without substantial effort on the part of The Journal and a number of other affected businesses. We should not have to expend our resources to convince the Government not to compete with us. Quite frankly, these resources could be used in much more productive ways, ways that would directly benefit the consumers of information.

The Government has also expended substantial resources in a basically unproductive manner. After spending several million dollars to begin the development of WITS, the Government has finally come to the conclusion that it is not needed. Had the Department initially directed its efforts toward upgrading its in-house support programs and relied on the private sector for the other information it needed, the improvements would be in place by now. Instead, three years later, the Department is only beginning to make the needed improvements.

Two years ago in testimony on WITS before the House Appropriations Committee, I pointed out the importance of a free and competitive information marketplace. The experience in the last two years has reaffirmed my earlier observations. As I said then, a competitive marketplace assures that the information consumer will benefit from the imagination and innovation of the private sector. If competition exists, the incentive to constantly improve and upgrade the quality of one's service also exists. However, if the Government drives out competition, the dynamics of the private market will be lost. Moreover, Government domination or control of information dissemination is not compatible with the concept of a free society. A free information marketplace uninhibited by Government competition assures the public of access to a broad range of information.

Again, I commend the Subcommittee for its attention to this important issue. Preventing Government competition in the private information marketplace is an issue which warrants a top priority.

Sincerely,

Eric Ridder

ER:rr

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APPENDIX 3.—CORRESPONDENCE WITH THE U.S. POSTAL SERVICE CONCERNING ELECTRONIC COMPUTER ORIGINATED MAIL (E-COM) SERVICE

A. LETTER FROM CHAIRMAN GLENN ENGLISH, SUBCOMMITTEE ON GOVERNMENT INFORMATION AND INDIVIDUAL RIGHTS, COMMITTEE ON GOVERNMENT OPERATIONS, TO POSTMASTER GENERAL WILLIAM F. BOLGER, U.S. POSTAL SERVICE, DATED APRIL 20, 1982, WITH REPLY DATED MAY 5, 1982

GLENN ENGLISH, OKLA., CHAIRMAN
TED WEISS, N.Y.
HENRY A. WAXMAN, CALIF.
JOHN L. BURTON, CALIF.
JOHN CONYERS, JR., MICH.

THOMAS N. KINDNESS, OHIO
JOHN N. ERLENBORN, ILL.
[illegible] BAILEY, MD.

225-3741

NINETY-SEVENTH CONGRESS

Congress of the United States

House of Representatives

GOVERNMENT INFORMATION AND INDIVIDUAL RIGHTS
SUBCOMMITTEE
OF THE
COMMITTEE ON GOVERNMENT OPERATIONS
RAYBURN HOUSE OFFICE BUILDING, ROOM B-349-B-C
WASHINGTON, D.C. 20515

April 20, 1982

The Honorable William F. Bolger
Postmaster General
U.S. Postal Service
475 L'Enfant Plaza, SW
Washington, D. C. 20260

Dear Mr. Bolger:

I am writing in connection with the subcommittee's continuing examination of the Postal Service's ECOM program.

Since the initiation of ECOM service last January, there have been a number of press reports of lower than expected volume. As I understand it, the Postal Service attributes any volume problems that may exist to the uncertainties created by pending litigation. The Service also points out that it has received in excess of 300 applications for use of ECOM. In order that I might gain a clear understanding of what has transpired to date, please provide the following information:

1. Describe the process for certification to use ECOM; provide a list of the firms that have made application, indicate both the application date, and, where appropriate, the certification date for each firm.

2. Describe the current and projected staffing levels at each SPO; include the number, grade, and salary of each position for both postal employees and contract personnel.

3. List, on a weekly basis, the level of message traffic for each SPO.

I would appreciate receiving this information by May 3.

Sincerely,

Glenn English
Chairman

GE:eg:bm

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THE POSTMASTER GENERAL
Washington, DC 20260

May 5, 1982

Honorable Glenn English
Chairman, Subcommittee on
Government Information
and Individual Rights
Committee on Government
Operations
House of Representatives
Washington, D.C. 20515

Dear Glenn:

This is in response to your letter of April 20 concerning the status of our Electronic Computer Originated Mail (E-COM) service.

I am pleased to report that the Court of Appeals decision filed April 20, upheld the Postal Service's authority to offer E-COM service. We believe this action by the court will give our customers the needed impetus and encouragement to proceed with their plans to use E-COM.

Each of our Serving Post Offices (SPOs) is staffed with five E-COM Unit Coordinators, EAS 14's. The salary range of this grade is $19,872 to $26,032. Maintenance support is presently being supplied by Radio Corporation of America as part of their E-COM contract. However, we have established two permanent maintenance positions at each site in preparation for assuming full responsibility of this function in January 1983. These positions are a PS-7 (basic salary range $16,877-$19,990) and a PS-9 (basic salary $18,309-$21,297). We do not anticipate additional staffing in the near future.

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Weekly message volume for each SPO, through April 30, is presented on the enclosed chart of E-COM message activity.

Also enclosed with this letter is a description of E-COM customer certification procedures plus a listing of the certified customers and another list of those not yet certified. A number of these customers have expressed a desire that their involvement not be publicly released. I believe that it is important to honor these requests in order to avoid any unnecessary negative impact upon these developing business relationships. Therefore, I ask that you and your staff likewise honor their requests for confidentiality.

Sincerely,

William F. Bolger

Enclosures

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E-COM CERTIFICATION PROCEDURE

The E-COM certification process requires that a prospective customer complete three activities prior to entering mail-pieces into the U.S. Postal Service E-COM system. The customer must prepare a sample transmission for evaluation by the Postal Service Test, Training, and Development Center (TTDC) in Rockville, MD. If the customer will be using E-COM for their own correspondence, that customer must prepare 25 messages for transmission to the TTDC using those formats and options the customer will use in a normal transmission. If the customer will be supplying E-COM service to others, that customer is required to prepare 100 messages for transmission to the TTDC using all available formats and options. This group of customers is also required to test their "merge" logic to ensure that no group or message number rollover occurs. When the customer has completed this phase of the certification process, they should inform the E-COM Sales and Service Representative (ESSR) that they are ready to test. The ESSR will make the necessary arrangements with the TTDC. The customer is given a temporary access code and the date and time that testing will begin.

The first phase of live testing is to verify that the customer can establish and maintain a telecommunications data link with E-COM equipment. This ability is demonstrated by establishing a data communication link and transferring two data blocks (approximately 1000 characters). Once satisfactory communications have been established, the customer enters the last phase of the process. In this phase of testing, the customer will once again establish a communications link to the TTDC. Once the link is established the customer will transmit the test messages that were prepared in Step One. Upon receipt of these messages, the staff of the TTDC will process the data entered by the customer. This data is processed using the exact same procedures used at each E-COM Serving Post Office. If there are any obvious defects in the output messages, the TTDC staff will analyze the data entered, and make recommendations to the customer as to what steps must be taken to eliminate those defects. If the output messages contain no obvious defects, the TTDC will issue a letter of certification to the customer. A copy of all sample messages is sent to the customer to verify that the format and content is exactly as the customer intended. If the customer locates any defects in these messages, he should contact the TTDC for further assistance and/or testing.

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96-665 O—82——12

E-COM APPLICANTS

	Applicant	Application Date
1.	Southern Company Services, Inc.	11/30/82
2.	Moral Majority	12/17/81
3.	Hollywood Federal S.L. Accoc.	12/17/81
4.	General Electric Info. Serv.	12/17/81
5.	General Development Corp.	12/17/81
6.	Sierra Club	12/17/81
7.	Charles Schwab & Co.	12/17/81
8.	Republic Natl. Bank of N.Y.	12/17/81
9.	Pacific Seaboard Ship-Bks Inc.	12/17/81
10.	Hickey-Mitchell Co.	12/17/81
11.	Dialcom Inc.	12/17/81
12.	AFL-CIO	12/17/81
13.	Columbia Gas Sys. Serv. Corp.	12/17/81
14.	Direct Mail Specialist, Inc.	12/17/81
15.	Internorth, Inc.	12/17/81
16.	Peter Kiewit Sons, Inc.	12/17/81
17.	Mutual of Omaha Ins. Co.	12/17/81
18.	Corporate Communications Center	12/17/81
19.	A&R Capital Corp.	12/17/81
20.	Hallmark Cards Inc.	12/17/81
21.	Lone Star Gas	12/17/81
22.	J.C. Penney Insurance Co.	12/17/81
23.	Schaper-Cosom	12/17/81
24.	Zale Corp.	12/17/81
25.	Community College of Phila.	11/27/81
26.	Mr. Charles Day Assist. Dean	12/11/81
27.	Mine Safety Appliance Co.	11/27/81
28.	Herald of Truth	12/11/81
29.	Scallop Corp.	11/27/81
30.	Equitable Life	12/11/81
31.	Merrill Lynch Pierce Fenner-SM	12/11/81
32.	United Virginia Bank	12/11/81
33.	Bethel Park School Dist.	12/11/81
34.	Motorcar Warehouse Inc.	11/27/81
35.	Electronic Mail Clearinghouse	11/27/81
36.	Shell Oil Co.	11/27/81
37.	Airline Passenger Association	12/17/81
38.	Electronic Data Systems	12/16/81
39.	National Processing Co. Ariz.	12/10/81
40.	Wordpro	12/11/81
41.	Crain Communications	12/11/81
42.	Carnation Co.	12/15/81
43.	Rawlings Aporting Goods Co.	12/11/81
44.	U.S. News & World Report	12/11/81
45.	Federal Reserve Bank St. Louis	12/11/81
46.	Interstate Electric Co. Inc.	12/14/81
47.	Applied Educational Sys. Inc.	12/11/81
48.	W. P. Group	11/30/81
49.	Lexcom, Inc.	11/24/81
50.	Accelerated Business Serv.	12/04/81

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E-COM APPLICANTS

	Applicant	Application Date
51.	Transport Clearings East	11/27/81
52.	Cato Corp.	11/27/81
53.	Financial Comm. Network Inc.	12/11/81
54.	Progressive Ins. Co.	12/11/81
55.	Union Oil Co. of California	11/27/81
56.	Flagg Bros.	11/27/81
57.	Computeroom Inc.	11/27/81
58.	Vanderbilt Univ. Computer Ct.	12/11/81
59.	Hospital Computer Systems Inc.	12/01/81
60.	DET Distributors	12/11/81
61.	General Tire & Rubber Co.	12/11/81
62.	Michigan Dept. Of Commerce	11/27/81
63.	Maremont Corp.	11/27/81
64.	Bancohio National Bank	12/11/81
65.	Murray Publishing Co. Inc.	12/21/81
66.	Bu. Land Mngmt, Dept. of Interior	12/21/81
67.	Blue Cross Blue Shield	12/21/81
68.	Fed. National Mortgage Assoc.	12/21/81
69.	Southwestern Bell Telephone Co.	12/21/81
70.	Shaklee Corp.	12/21/81
71.	Merchandising Methods, Inc.	12/21/81
72.	20th Century Plastics, Inc.	12/21/81
73.	Marvin Gorman Ministries	12/21/81
74.	Service Merchandise Co. Inc.	01/04/82
75.	R. J. Reynolds Industires	01/04/82
76.	First Bank of Milwaukee	01/04/82
77.	Temple University Ambler CMP.	01/04/82
78.	Commerce Bank of Kansas City	01/04/82
79.	Reliance Ins. Co.	01/04/82
80.	Society of Photo Optical Eng.	01/04/82
81.	First National Bank Data Processg.	01/04/82
82.	System Development Corp.	01/04/82
83.	United Services Auto Assoc.	01/04/82
84.	Anacom	01/04/82
85.	UACC of Texas Inc.	01/04/82
86.	Kerr McGee Corp.	01/04/82
87.	Super Valu Stores Inc.	01/04/82
88.	B & E Sales Company	01/04/82
89.	Better Business Communications	01/04/82
90.	Wachovia Bank & Trust Co.	12/31/81
91.	General Elec. Credit Corp.	12/31/81
92.	County of L.A. Tax Coll.	12/31/81
93.	Eastman Kokak	12/31/81
94.	Old American Ins. Co.	12/22/81
95.	Market Development Corp.	12/22/81
96.	McQuay Norris Inc.	12/22/81
97.	Semantodontics, Inc.	12/22/81
98.	N.Y. Blue Cross Medic PT. A	12/23/81
99.	Custom Mailers	12/22/81
100.	Commerical Letter Inc.	12/22/81

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E-COM APPLICANTS

Applicants	Application Date
101. Woolworth Woolco	12/22/81
102. National Mailing Services	12/22/81
103. Government Employees Hospital Assoc.	12/22/81
104. Integon Corp.	12/23/81
105. The Goodyear Tire & Rubber Co.	12/22/81
106. Knight-Ridder News Papers	12/22/81
107. Time Insurance	12/22/81
108. Blue Cross of Greater Philadelphia	12/22/81
109. Bausch & Lomb	12/23/81
110. Justice Info. Mangmt Inc.	12/22/81
111. McDonnell Douglas Corp.	12/23/81
112. General Motors Corp.	01/04/82
113. Cadillac Motor Car Div.	01/04/82
114. Burroughs Corp.	01/04/82
115. St. Paul Companies Insurance	01/04/82
116. Greeley Gas Co.	01/04/82
117. I.C. Systems	12/29/82
118. N.W. National Bank	12/29/82
119. Calhoun Collectors Society	12/29/81
120. Unicover Corp.	12/30/81
121. Adventist Health Sys/Sunbelt	12/28/81
122. American Trucking Association	01/12/82
123. Manufacturing Data Systems Inc.	01/12/82
124. Hibernia National Bank	01/12/82
125. Auerbach Computer Tele. Corp.	01/12/82
126. Diversified Data Proc. Conslt.	01/12/82
127. The Rylander Co.	01/12/82
128. Response Graphics	01/12/82
129. Automated Enterprises, Inc.	01/12/82
130. Marketing Communications Inc.	01/12/82
131. American Hamilton	01/12/82
132. World Concern	01/15/82
133. Showroom Traffic Builders	01/15/82
134. Football News Co.	01/15/82
135. First of Michigan	01/15/82
136. JML Computer	01/15/82
137. Everett Faircloth	01/15/82
138. County of San Mateo Cntl. Coll	01/15/82
139. Gedco, Inc.	01/15/82
140. Thomas Jefferson University	01/15/82
141. Telex Relay Service	01/15/82
142. NLT Computer Services	01/15/82
143. Terminix International Inc.	01/15/82
144. First Commodity Corp. of Boston	01/13/82
145. Mobil Oil Co.	01/13/82
146. Mediawire	01/13/82
147. Dictation Systems East	01/13/82
148. Firestone Tire & Rubber Company	01/13/82
149. Centralab Inc.	01/13/82
150. Shakti Distributes, Inc.	01/13/82

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E-COM APPLICANTS

	Applicants	Application Date
151.	Development Off. New England Med.	01/13/82
152.	Mailing Services Inc.	01/13/82
153.	Telcom Industries	01/13/82
154.	The Last Worl	01/13/82
155.	Telemarketing Inc.	01/13/82
156.	Ace Mailing Service, Inc.	01/13/82
157.	Robert Lloyd Brown	01/13/82
158.	Westinghouse Credit Corp.	01/13/82
159.	Manus Direct Response Marketing	01/13/82
160.	General Motors Photographic	01/13/82
161.	Mr. Fred A. Catapano	01/13/82
162.	Manzono Resources	01/22/82
163.	Spence Enterprises, Inc.	01/22/82
164.	Barter Worldwide, Inc.	01/22/82
165.	Commercial Metals Co.	01/22/82
166.	ENVAX	01/22/82
167.	Health Resources, INc.	01/22/82
168.	Century Data, INc.	01/22/82
169.	Communications Consultnats, Inc.	01/22/82
170.	ESCO Corp.	01/22/82
171.	First of Denver	01/22/82
172.	Three Systems Inc.	01/22/82
173.	Astrocom Corp.	01/20/82
174.	Maryland National Bank Cr. Card C	01/19/82
175.	American Service Systems Inc.	01/20/82
176.	Drexel University	01/19/82
177.	Boston Telex Service	01/19/82
178.	Com Squared Systems, Inc.	01/20/82
179.	United Van LInes INc.	01/19/82
180.	EMDA, Inc.	01/20/82
181.	Professional Software Systems	01/20/82
182.	Snapp Inc.	01/20/82
183.	Meeker-Mayer	01/19/82
184.	E. H. Hurwitz & Associates	01/19/82
185.	Free Enterprise Advocates	01/20/82
186.	Jostens, INc.	01/20/82
187.	American Data Servyces	01/19/82
188.	Del E. Webb Corp.	01/20/82
189.	First National Bank of Florida	01/20/82
190.	The Arizona Bank	01/20/82
191.	Direct Response Services Inc.	01/20/82
192.	Laporte, Sehrt, Romig & Hand	01/26/82
193.	Colonial Savings	01/26/82
194.	Book-of-the-Month Club, Inc.	01/26/82
195.	Haskell of Pittsburgh	01/26/82
196.	Generation Plus	01/26/82
197.	Mr. Armin Bendiner	01/26/82
198.	Edgemont Corp.	01/26/82
199.	Super-Vision, Inc., Officenter	01/26/82
200.	Mr. Richard Bialac	01/26/82

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E-COM APPLICANTS

Applicants	Application Date
201. Computer Ser. Div. of I.C. Sys	01/26/82
202. Fifth Third Bank	01/26/82
203. Equine Marketing Inc.	01/26/82
204. Dr. Levines Info. Machine	01/27/82
205. Mr. Ed. Kelly Graphic Design	01/27/82
206. Seva Foundation	01/27/82
207. Bell & Howell Bus. Equip. Grp.	01/27/82
208. Todd Travel Promotions	01/27/82
209. Orangetree Printing	01/27/82
210. Oregon St. Univ. Dep. Prt/Mail	01/29/82
211. Voter/Issue Communications	01/29/82
212. Computerized Business Serv.	01/29/82
213. Assured Retirement, Inc.	01/29/82
214. The Headquarters Companies	01/29/82
215. Day-Timers Inc.	01/29/82
216. General Electric Co.	02/01/82
217. Honorable John Kelly	01/29/82
218. Micro Corp.	02/01/82
219. U. S. National Bank of Oregon	02/01/82
220. Scientific Atlanta, Inc.	02/01/82
221. Kaiser Kuhn Bennet & Sharp	02/01/82
222. GBS Beauty Wholesale Co.	02/01/82
223. Standard Insurance Co.	02/01/82
224. Micromeritics Inst. Corp.	02/01/82
225. Kresch & Kresch	02/01/82
226. BRC&A Direct Marketing	02/01/82
227. Oregon Physicians Serv. B Shld	02/01/82
228. Transcr. Sec. Port Auth. NY-NJ	02/05/82
229. Gen. Telephone Co. Southwest	02/05/82
230. University of Md. OTB.	02/05/82
231. Palapteryx Direct Marketing	02/05/82
232. Compu-Serve, Inc.	02/05/82
233. Source Telecomputing Corp.	02/05/82
234. Rigel Computer Sys. Inc.	02/05/82
235. Reliable Cr. Assoc! Inc.	02/05/82
236. International Computers Ltd.	02/02/82
237. Mellon Bank, NA	02/02/82
238. Van Dee Printing/Mailing Serv.	02/02/82
239. United Adjustment Bureau Inc.	02/02/82
240. Diversified Data Proc/Consl.	02/02/82
241. Flyfaire, Inc.	02/02/82
242. Continental Comp. Leasing Corp.	02/03/82
243. Pilgrim Health Application Inc.	02/03/82
244. Wells Fargo Bank	02/10/82
245. Consumer Merchandising Inc.	02/10/82
246. Amity Unlimited Inc.	02/10/82
247. So. Pacific Distrbd Msg sys Co	02/10/82
248. Showcase-Remac	02/10/82
249. EMA MGMT Associates Inc.	02/10/82
250. Associated Computer Consultant	02/10/82

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E-COM APPLICANTS

Applicants	Application Data
251. Security Pacific National Bank	02/10/82
252. John Forman	02/10/82
253. Zipco Mailing Service Inc.	02/10/82
254. Federated Investors, Inc.	02/17/82
255. Cableputer, Inc.	02/17/82
256. Bethlehem Steel Corp.	02/17/82
257. Philadelphia Gas Works	02/17/82
258. Sav-on Postal Service, Inc.	02/17/82
259. Craver, Mathews, Smith & Co.	02/19/82
260. Ficon Ltd.	02/19/82
261. Mr. Frank Vandelinder	02/19/82
262. State Farm Mutual Auto Ins. Co.	02/19/82
263. Management Control Systems	02/19/82
264. Fingerhut Corp.	02/19/82
265. Hertz Commercial Leasing	02/19/82
266. Winterhalter & Associates	02/19/82
267. Boca Blu Star	02/19/82
268. Business Systems, Inc.	02/19/82
269. Action Telex	02/19/82
270. Management Operations Center	01/04/82
271 Hatfield Recon Center, Inc.	02/24/82
272. Aratler Office Services	02/24/82
273. John's Sporting Goods	02/24/82
274. City of Scottsdale	02/24/82
275. Advanced Marketing Associates	02/24/82
276. American Bureau of Collections	02/24/82
277. Ken W. Thomas Studio	02/24/82
278. S.L. Pope & J.C. Bradford & Co.	02/24/82
279. Concord Consltg' Services, Inc.	02/24/82
280. Mailsystems Unlimited	02/24/82
281. Buick Motor Division	03/25/82
282. United Services Life Ins. Cos.	03/01/82
283. CLU Agency R. J. Gilbertson	03/01/82
284. Smoke Craft Div. Int'l Multfods	03/01/82
285. National Energy Info Center Dept.	03/04/82
286. National City Bank, Corp. Trust Dep.	03/04/82
287. Oktibbehar County Hospital	03/04/82
288. The Mail Room, Inc.	03/04/82
289. Computer Mart	03/04/82
290. Datalift Corp.	03/04/82
291. Computer Consultions, Inc.	03/04/82
292. Ford Motor Credit Co.	03/04/82
293. University of Wisconsin-Madison	03/08/82
294. Beech Aircraft Corp.	03/08/82
295. Northwest Anesthesia Seminars	03/08/82
296. A.B. Data Ltd.	03/08/82
297. American Computer Network, Inc.	03/08/82
298. IRCA Inc.	03/08/82
299. Eye Care Associates	03/09/82
300. Computer-Time Corp.	03/09/82

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E-COM APPLICANTS

	Applicants	Application Date
301.	Lamaute International Inc..	03/09/82
302.	Network Data Sys. Of Florida	03/09/82
303.	The Stroh Brewery Co.	03/09/82
304.	Senor Securities, Inc.	03/18/82
305.	Pittman, Crown & Bridge	03/18/82
306.	U.S. Dept. Housing & Urban Devel.	03/18/82
307.	Hoover Universal Inc.	03/18/82
308.	Nobel Software Co.	03/18/82
309.	Columbia Computer Corp.	03/18/82
310.	Consolidated Mailing Corp.	03/18/82
311.	Halliburton & Associates, Inc.	03/18/82
312.	Conoco, Inc.	03/18/82
313.	Michigan Dept. Civil Service	03/18/82
314.	Henry Ford Hospital	03/18/82
315.	Zuchelli, Hunter & Associates	03/18/82
316.	Beurmann-Marshall Corp.	03/18/82
317.	UIU Health & Welfare Fund	03/18/82
318.	First Data Resources Inc.	03/18/82
319.	MJM Business Services	03/18/82
320.	Glass Bottle Blowers-AFL-CIO	03/18/82
321.	Inland Power & Light Co.	03/18/82
322.	Harris Direct Marketing, Inc.	03/18/82
323.	Republican State Ctl. Comm Iowa	03/18/82
324.	Cessna Aircraft, Co.	03/18/82
325.	Data Magnetics Inc.	03/18/82
326.	Media Center II, Inc.	03/18/82
327.	Carol's Keypunch Service	03/24/82
328.	Electronic Mail of Mobile	03/25/82
329.	J. L. Hudson Co.	03/25/82
330.	Honeywell, Inc.	03/24/82
331.	ITT World Communications	03/24/82
332.	KPT Inc.	03/26/82
333.	3 M Company	03/26/82
334.	Mohawk Data Sciences	03/24/82
335.	National Auto Research Div.	03/24/82
336.	Joseph M. Reitmeyer	03/24/82
337.	Ryan-McFarland, Inc.	03/24/82
338.	The Security Place, Inc.	03/26/82
339.	Tymshare, Inc.	03/25/82
340.	Volkswagen Mid-America, Inc.	03/24/82
341.	Voter Contact Services	03/24/82
342.	Mark Weber, Inc.	03/24/82
343.	XCEL Products Co. Of Ohio, INc.	03/24/82
344.	Telepost, Inc.	03/29/82
345.	Central Management Corp.	03/29/82
346.	Claude A. Fitch	04/02/82
347.	Ingersoll-Rand Co.	04/02/82
348.	Rochester Telephone	04/02/82
349.	Image Printing Systems, Inc.	04/02/82
350.	Mr. J. Ira Weaver	04/02/82

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E-COM APPLICANTS

Applicants	Application Date
351. Automated Business Services, Inc.	04/02/82
352. Grocer's Coupon Clearinghouse	04/02/82
353. Computer Concepts, Inc.	04/02/82
354. Alpha Computer Group, Inc.	04/07/82
355. B & H Hardware, Inc.	04/07/82
356. Causley Trucking, Inc.	04/07/82
357. Data Express Inc.	04/07/82
358. GK Enterprises of Gainesville	04/07/82
359. International Postal Serivce	04/07/82
360. The Institue of Internatl Audt	04/07/82
361. Interactive Computing of Vermt	04/07/82
362. James A. Jarboe IV	04/07/82
363. Ochsner Clinic	04/07/82
364. Stuffit Company Inc.	04/07/82
365. National Mailroom	04/15/82
366. Direct Response Products Inc.	04/15/82
367. Electronic Mail of Auburn	04/15/82
368. Data Word Corporation	04/21/82
369. Air REserve Personnel Center	04/21/82
370. Time Inc. Time & Life Bldg	04/21/82
371 Walter V. Jaycox	04/26/82
372. Envoy Corp. United Aritst Twr.	04/26/82
373. Computerland of Dallas & Ft. Worth	04/26/82

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CERTIFIED E-COM CUSTOMERS

	Certified Customers	Certification Date
1.	R.C.A.	01/02/82
2.	Netword	12/22/81
3.	Electronic Mail Corp. of America	01/04/82
4.	DEC-	12/22/81
5.	PCA-	12/22/81
6.	WUEMI	12/22/81
7.	Borman's, Inc.	12/31/81
8.	Equifax	12/31/81
9.	Churchill	02/10/82
10.	Conway Communications Exchange	04/22/82
11.	Business Corp.	01/29/82
12.	Software Development & Maintenance	02/24/82
13.	Penn & Schoer	04/26/82
14.	Moulton Data Systems	04/26/82
15.	Omnicom	03/03/82
16.	Business Word Processing	03/19/82
17.	News Analysis Chart	02/16/82
18.	MCC	03/03/82
19.	Data Netword	03/01/82
20.	Jacobus	02/08/82
21.	Heritage	02/08/82
22.	Missouri Indexing	03/19/82
23.	Electronic Mail Service	04/16/82
24.	World-Wide VW	04/08/82
25.	APR Public Relation	04/15/82
26.	VW Mid-America	04/16/82

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E-COM MESSAGE ACTIVITY

SPO Name		1/8	1/15	1/22	1/29	2/5	2/12	2/19	2/26	3/5	3/12	3/19	3/26	4/2	4/9
New York, NY	NORTHEAST	1370	149	186	354	439	387	706	2970	4011	607	566	396	1044	4032
Boston, MA		846	106	47	85	160	175	331	250	1688	197	337	115	572	136
Philadelphia, PA	EASTERN	1013	376	19	80	175	317	488	322	949	331	308	284	501	478
Pittsburgh, PA		351	87	19	163	85	77	70	139	396	73	128	394	291	74
Washington, DC		1555	78	495	1949	459	831	668	683	3469	1017	2190	1656	2156	1692
Richmond, VA		261	32	8	35	78	38	26	245	114	--	10	18	213	19
Charlotte, NC	SOUTHERN	554	115	117	160	233	103	106	139	128	120	93	176	330	114
Atlanta, GA		743	61	31	298	245	135	104	127	98	105	89	91	279	98
Orlando, FL		365	50	79	136	308	255	195	189	234	199	187	197	378	281
Nashville, TN		268	1403	23	47	219	50	30	34	49	53	72	42	357	50
New Orleans, LA		504	45	128	34	887	55	181	341	1502	1045	523	77	387	211
Dallas, TX		617	65	70	102	264	257	148	453	118	299	294	86	1394	18687
San Antonio, TX		638	43	107	62	139	82	99	556	87	80	63	93	477	89
Detroit, MI	CENTRAL	753	36	47	67	47	32	91	197	166	52	119	281	280	91
Cincinnati, OH		275	96	25	89	142	79	75	63	182	98	121	65	601	93
St. Louis, MO		515	34	23	45	38	24	73	16	54	125	52	36	248	4053
Kansas City, MO		390	77	28	921	196	57	96	670	71	24	2036	28	282	58
Chicago, IL		936	730	190	253	743	272	214	447	291	246	308	279	528	342
Minneapolis, MN		512	41	15	675	146	27	106	225	76	57	66	35	447	45
Milwaukee, WI		327	39	17	39	84	233	1804	272	291	13	23	24	299	26
Denver, CO	WESTERN	298	552	56	76	8832	1846	181	23	36	76	54	41	258	62
Seattle, WA		319	34	14	522	28	32	153	29	191	86	119	342	724	67
San Francisco, CA		1493	611	154	230	677	179	231	123	133	857	209	183	468	232
Phoenix, AZ		252	16	13	11	22	23	170	651	25	11	34	14	230	17
Los Angeles, CA		795	132	69	163	188	304	1511	238	824	245	273	264	448	246

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E-COM MESSAGE ACTIVITY

SPO Name		4/16	4/23	4/30	TOTAL
New York, NY	NORTHEAST	1081	12127	1344	31,769
Boston, MA		49	391	240	5,725
Philadelphia, PA	EASTERN	682	200	4317	10,840
Pittsburgh, PA		17	499	219	3,082
Washington, DC		2102	1372	1788	24,160
Richmond, VA		200	417	214	1,928
Charlotte, NC	SOUTHERN	248	234	229	3,199
Atlanta, GA		5401	651	14857	23,413
Orlando, FL		108	200	225	3,586
Nashville, TN		26	218	217	3,158
New Orleans, LA		230	233	0	6,383
Dallas, TX		943	1240	10808	35,845
San Antonio, TX		29	217	213	3,074
Detroit, MI	CENTRAL	16	217	210	2,702
Cincinnati, OH		24	222	232	2,482
St. Louis, MO		6	253	1096	6,691
Kansas City, MO		11	221	230	5,396
Chicago, IL		608	936	5146	12,469
Minneapolis, MN		14	217	202	2,906
Milwaukee, WI		8	217	277	3,993
Denver, CO	WESTERN	160	355	404	13,310
Seattle, WA		39	397	212	3,308
San Francisco, CA		71	300	221	6,372
Phoenix, AZ		7	17	212	1,725
Los Angeles, CA		874	659	4216	11,449

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B. LETTER FROM CHAIRMAN GLENN ENGLISH, SUBCOMMITTEE ON GOVERNMENT INFORMATION AND INDIVIDUAL RIGHTS, COMMITTEE ON GOVERNMENT OPERATIONS, TO POSTMASTER GENERAL WILLIAM F. BOLGER, U.S. POSTAL SERVICE, DATED MAY 25, 1982, WITH REPLY DATED JUNE 18, 1982

GLENN ENGLISH, OKLA., CHAIRMAN
TED WEISS, N.Y.
HENRY A. WAXMAN, CALIF.
JOHN L. BURTON, CALIF.
JOHN CONYERS, JR., MICH.

THOMAS N. KINDNESS, OHIO
JOHN N. ERLENBORN, ILL.
WILLIAM DICKS, WIS.

225-3741

NINETY-SEVENTH CONGRESS

Congress of the United States

House of Representatives

GOVERNMENT INFORMATION AND INDIVIDUAL RIGHTS
SUBCOMMITTEE
OF THE
COMMITTEE ON GOVERNMENT OPERATIONS
RAYBURN HOUSE OFFICE BUILDING, ROOM B-349-B-C
WASHINGTON, D.C. 20515

May 25, 1982

Honorable William F. Bolger
Postmaster General
U.S. Postal Service
475 L'Enfant Plaza, SW
Washington, D. C. 20260

Dear Mr. Postmaster General:

Last month I wrote you concerning ECOM operations. In your May 5 response, you noted that the Court of Appeals had handed down a decision affirming the Postal Service's authority to offer ECOM. You went on to say that the court's action would provide an impetus and encouragement to customers to proceed with their plans to use ECOM. The court decision, your assertion, and some of the information you provided in response to my earlier questions prompts me to make further inquiry.

To begin with, I remain confused about and concerned over the extent to which the current ECOM rate structure is compensatory. When he appeared before the Subcommittee on Government Information and Individual Rights last fall, I asked Mr. Finch what adjustments would be made to cover the apparent differences between the cost of the system as proposed by the Postal Rate Commission and the cost of the system implemented by the Service. Mr. Finch responded as follows:

> As Mr. Hardesty announced in a statement he made on September 22 at the Board of Governors meeting, the Governors have requested that Postal Service management make a thorough exploration of all of the costs relating to ECOM as well as our initial operating costs beginning January 4, and to come back to the Board early in calendar year 1982 with a proposed filing with the Postal Rate Commission to establish appropriate rates on those actual costs.

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Honorable William F. Bolger
May 25, 1982

Mr. Finch went on to say that the "twenty six cents...happened to be less than the rate proposed by the Postal Service when it originally filed with no capital investment." Regarding possible rate changes, Mr. Finch opined that "common sense would say it would be a substantial increase."

Early 1982 has come and gone. The Postal Service has five months of ECOM experience, at least one month of which is post-court decision. The Postal Reorganization Act requires that each class of mail and type of service bear the direct and indirect costs attributable to it (39 U.S.C. 3522(b)(3)). This provision also prohibits cross-subsidization. In view of the above, would you please advise me: (1) whether a filing has been prepared in accordance with Chairman Hardesty's request and (2) the timetable for going forward to the Board and the Commission with such a filing?

An early response to the above questions and those contained in the enclosure would assist us in concluding our investigation.

Sincerely,

Glenn English
Chairman

GE:eg:bm
Enclosure

cc: Robert L. Hardesty, Chairman, Board of Governors, USPS
Janet D. Steiger, Chairwoman, Postal Rate Commission

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THE POSTMASTER GENERAL
Washington, DC 20260

June 18, 1982

Honorable Glenn English
Chairman, Subcommittee on Government
Information and Individual Rights
Committee on Government Operations
House of Representatives
Washington, D.C. 20515

Dear Glenn:

This is in response to your letter of May 25, in which you posed a number of questions concerning electronic computer originated mail (E-COM) service.

As noted in my letter of May 5, the Court of Appeals' order, which was issued on April 20, 1982, has encouraged volume growth for E-COM service. Volume for our Accounting Period 8, which ended on May 14, was 133,325, an increase of 144% over Accounting Period 7, the period immediately preceding the Court's order.

You inquired, in the body of your letter, about a possible Postal Rate Commission filing concerning E-COM service rates. Unfortunately, the litigation pending during the first four months of E-COM operations was not simply a marketing or sales problem. Given the air of uncertainty caused by the litigation, we were not able to proceed with the market research required to project service volumes for the next several years. Such projections represent a critical unknown for our costing and pricing analysts, since without those projections, unit costs cannot be derived for capital investments or for other E-COM costs which do not vary in direct proportion to volume. Prices, in turn, cannot be appropriately constructed without cost and demand information.

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The litigation and the consequent delay in market research did not exist last fall when you received Mr. Finch's testimony. Mr. Finch's statement represented our best estimate at that time, but adherence to the schedule leading to an early 1982 draft filing simply became impossible. Of course, the Governors have been apprised of developments in E-COM litigation and E-COM operations.

Market research efforts have resumed over the course of the last several weeks. We now expect to receive the results of these research efforts in the fall, at which time we will be able to proceed with analysis of the impact of the results on estimates of volumes, costs and demand elasticity. If found to be warranted, an E-COM rate filing would then be submitted to the Board of Governors for its approval, and subsequent submission to the Postal Rate Commission.

I am enclosing responses to your additional questions and requests. As noted within those responses, we undertake to deal with our customers on the presumption that they desire confidentiality. Therefore, I ask, as I did in my letter of May 5, that you hold information on E-COM customers in confidence.

Sincerely,

William F. Bolger

Enclosures

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Q-1. YOUR MAY 5 RESPONSE ADVISED THAT 373 PARTIES HAD MADE APPLICATION AND 26 HAD BEEN CERTIFIED TO USE E-COM. YOU ALSO MENTIONED THAT AN UNSPECIFIED NUMBER OF APPLICANTS HAD REQUESTED CONFIDENTIALITY.

a. HOW WOULD YOU EXPLAIN THE DIFFERENCE BETWEEN THE NUMBER OF APPLICANTS AND THE NUMBER OF CERTIFIED PARTIES?

The difference between the number of applicants and the number of certified parties is explained principally by the fact that certification cannot be granted until an approved applicant modifies its facilities and demonstrates in a test that it is able to interconnect its computer with the E-COM system. The application is used as the basis for establishing an account. After the application has been received and processed, the applicant is assigned an account number. The certification is a test that demonstrates that the applicant can interconnect with the E-COM system and can transmit messages that the E-COM system can process and print. Upon successful testing, the applicant is assigned a secret access code. The account number and the access code must be used together for entry into the E-COM system.

The time lag between the signing of the application and successful certification is a function of the applicants' speed in modifying their current systems to interface with the E-COM system. These modifications may include all or some of the following items.

1. Buying or leasing and installing the correct modem or data service device.

2. Buying and installing the proper communications protocol circuit board for their computer.

3. Buying and installing communications software that can run using the protocol circuit board.

4. Developing and installing applications software to format their messages in the standard E-COM formats.

In nearly all instances the applicant's speed in completing the changes is driven by the applicant's internal operations. It is the policy of the Postal Service to provide all necessary technical guidance, but <u>not</u> to do any of the work, such as

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programming. We have trained a group of computer specialists to provide technical guidance on an as needed basis. As such, the Postal Service has limited ability to speed up the process of getting applicants certified.

b. HAS ANY APPLICANT BEEN DENIED CERTIFICATION? IF SO, IDENTIFY AND EXPLAIN THE CIRCUMSTANCES IN EACH SUCH CASE.

No.

c. SPECIFICALLY, HOW MANY APPLICANTS REQUESTED CONFIDENTIALITY AND WHAT REASONS DID THEY GIVE FOR MAKING THIS REQUEST?

It is a matter of general understanding between Postal Service customers and Customer Services Representatives, through consistent practice, that the fact and nature of customers' dealings with the Postal Service will be held in confidence, unless the Postal Service seeks and receives express permission to release such information. If a customer does not grant such permission, the customer is not expected to offer any explanation or justification for that decision. The Postal Service has sought permission to release the names of some E-COM service applicants on two occasions, each of which preceded service inauguration on January 4, 1982. In each instance, about 75% of the contacted applicants asked that their names not be released.

d. HAVE ANY APPLICANTS WHO REQUESTED CONFIDENTIALITY SOUGHT CERTIFICATION TO USE? IF SO, HOW MANY WERE CERTIFIED; DENIED; HAVE ACTUALLY USED E-COM?

Yes. As of June 1, 1982, one such company has been certified and it is using E-COM service.

e. OF THE 26 PARTIES WHO HAVE BEEN CERTIFIED, HOW MANY HAVE ACTUALLY USED E-COM? PLEASE PROVIDE A TABLE SHOWING THE VOLUME OF EACH USER.

As of June 1, 1982, 34 customers were certified; these customers are listed in Attachment A. Of that number, 27 have used E-COM service, and we are providing a list of these customers as Attachment B. We hope you will agree that for reasons of privacy, security, competition, as well as good customer relations, an individual customer's volume ought not

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be released. Our concern about these issues has led us in the past to promulgate regulations covering mail security and privacy generally. We have no difficulty, however, in disclosing their total volume through June 4, 1982, which is 366,576.

f. HAS THERE BEEN A SIGNIFICANT INCREASE IN APPLICANTS AND REQUESTS FOR CERTIFICATION SINCE THE COURT DECISION? IF SO, PLEASE GIVE THE NUMBER IN EACH CATEGORY AND LIST BY NAME THOSE REQUESTING CERTIFICATION.

Since April 20, there have been an additional 64 applicants and 11 additional companies have been certified. See Attachment A.

Q-2. AS I UNDERSTAND IT, THE GOVERNORS' DECISION OF AUGUST, 1980, TO PROCEED WITH E-COM WAS PREMISED IN PART ON THE BELIEF THAT ELECTRONIC TRANSMISSION WOULD RESULT IN SUBSTANTIAL SAVINGS IN THE AREA OF HARD COPY TRANSPORTATION COSTS. THIS ASSUMPTION, AND THE VERY CONCEPT OF E-COM, IMPLY THAT USERS WOULD BE TRANSMITTING MESSAGES TO THE SPO CLOSEST TO THE DELIVERY ADDRESS OF THAT MESSAGE.

While E-COM service did and does contemplate some avoidance of longer-haul transportation costs, avoidance of these costs was not mentioned by the Governors as a primary consideration in going forward with E-COM service. Much more important considerations were enabling mailers to receive faster delivery of important letter mail, enabling mailers to avoid the costs and delays of preparing mail themselves and then presenting it to the Postal Service, and potential Postal Service savings in avoiding mail acceptance costs and in sorting mail by computer while still in electronic form. We believe that substantial mailer cost and time savings in avoiding mail preparation and Postal Service cost savings in mail processing can be achieved whether E-COM mail is submitted to the serving post offices designated to serve the addresses of the messages or to the serving post office nearest the mailer.

a. HOW MANY CERTIFIED USERS ARE TRANSMITTING SOLELY TO THE SPO WITHIN WHICH THEY ARE GEOGRAPHICALLY LOCATED? PLEASE IDENTIFY THESE USERS BY NAME.

Eighteen certified customers have transmitted to a single SPO. For the reasons set out in one response to question 1(e), we would like to maintain the confidentiality of customers' mailing practices.

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b. FOR THOSE USERS WHO TRANSMIT BOTH INTRA- AND INTER-SPO, PLEASE GIVE THE NUMBER AND/OR PERCENTAGE OF MESSAGES FALLING INTO EACH CATEGORY. (This information should be added to the table from question 1.e.)

This data is not maintained in our system.

c. WHAT WAS THE LEVEL/PERCENTAGE OF INTRA-SPO TRAFFIC ANTICIPATED BY THE SERVICE IN ITS PLANS AND PROJECTIONS? HOW DOES THE POSTAL SERVICE ASSUMPTION COMPARE WITH ITS EXPERIENCE TO DATE? CAN YOU RECONCILE THIS LEVEL OF INTRA-SPO DUMPING AND THE GOVERNORS' ASSERTIONS ON TRANSPORTATION-RELATED SAVINGS?

Approximately 65% of the traffic was anticipated to be local. We do not know what percentage is in fact local.

d. WHAT MEANS DOES THE POSTAL SERVICE EMPLOY TO DELIVER E-COM MESSAGES TRANSMITTED TO ONE SPO THAT ARE DESTINED FOR AN ADDRESS IN ANOTHER SPO? WAS THE COST OF EMPLOYING THESE MEANS OF DELIVERY FROM ONE SPO TO AN ADDRESS IN ANOTHER SPO INCLUDED IN THE CURRENT RATE STRUCTURE? Explain.

E-COM messages submitted at a serving post office other than the one designated to serve the addresses of the messages are transported to their destination as First-Class Mail. Generally, longer-haul transportation costs were not included in the Postal Service's E-COM cost estimates because under the Postal Service's proposal there would have been no longer-haul transportation. The E-COM service recommended by the Postal Rate Commission, and accepted by the Governors, does create the potential for longer-haul transportation of some E-COM messages. This occurs where an E-COM customer submits messages at a SPO for delivery outside of that SPO's service area. The Postal Service accepts such messages, so as not to restrict customers' choices among SPOs. Transportation costs, which in FY 1980 totaled approximately $.004 per First-Class letter or parcel, will be attributed to E-COM service in any future E-COM rate adjustment cases. The actual amount attributed will depend on the number of pieces receiving longer-haul transportation, their weight, and the number of cubic feet they occupy.

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e. DOES THE SERVICE HAVE ANY PLANS FOR OR THOUGHTS ABOUT EMPLOYING OTHER MEANS, SUCH AS ELECTRONIC RETRANSMISSION TO THE CLOSEST SPO, AS A WAY OF AVOIDING THE ADDITIONAL COST OF TRANSPORTING BETWEEN SPOs?

The Postal Service does not have any plans for or thoughts about employing any means other than conventional First-Class Mail transportation solely as a way of avoiding the additional cost of transporting between SPOs.

f. HOW DOES THE E-COM PRINTING AND STUFFING IN ONE SPO OF A MESSAGE DESTINED FOR DELIVERY IN THE AREA SERVED BY ANOTHER SPO DIFFER FROM THE USE BY MAILERS OF "DISCOUNT LETTER SHOPS"? HAS THE POSTAL SERVICE BEEN PUT IN THE POSITION OF OPERATING "SUBSIDIZED LETTER SHOPS"?

The major differences are the merging of messages from multiple senders into a single mailstream and the performance of mail acceptance and sorting operations electronically rather than manually or mechanically. This merging and electronic processing allows for the creation of direct bundles, thus avoiding single piece handling.

No, the Postal Service is not operating a subsidized letter shop. Besides the advantages of electronic mail processing and merging, the Postal Service is committed to having a self-supporting E-COM service.

Q-3. A RECENT POSTAL SERVICE PUBLICATION CARRIED AN ARTICLE ENTITLED "USERS FIND E-COM SERVICE 'FANTASTIC.'"

a. PETER McARTHER OF THE HERITAGE WISCONSIN CORP. IS QUOTED AS VERY PLEASED WITH HIS FIRM'S USE OF E-COM FOR "SENDING PROMOTIONAL LETTERS . . ." AND "USES IT FOR NEWS RELEASES . . ." GIVEN THESE STATEMENTS AND THE REPORTED USE BY MCC FOR REAL ESTATE AND TRANSPORTATION ADVERTISING, IS IT POSSIBLE THAT E-COM HAS OR WILL BECOME A SUBSTITUTE FOR 3rd CLASS MAIL? IF SO, WHAT EFFECT IS THE RECOGNITION OF E-COM AS AN ADVERTISING VEHICLE LIKELY TO HAVE ON ITS ACCEPTANCE BY AND USE FOR OTHER PURPOSES?

E-COM service is a potential advertising medium to the extent that First-Class Mail is used for advertising and such advertising is generated in a computer.

The effect of E-COM service as an advertising medium on the acceptance of E-COM service for other purposes is not known.

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b. THE ARTICLE CITES A SURVEY OF SOME 130 WUEMI CUSTOMERS MOST OF WHOM (86%) SAY LOWER COSTS WERE THE MAIN REASON FOR USING THE SERVICE. THE PHRASE "LOWER COSTS" IMPLIES THESE CUSTOMERS WERE USING A HIGHER COST SERVICE. PROVIDE YOUR VIEWS ON WHAT THIS HIGHER COST SERVICE MAY HAVE BEEN. COULD THESE CUSTOMERS HAVE SWITCHED OVER FROM MAILGRAM? IF NOT, EXPLAIN.

We did not conduct the survey nor have we reviewed the results of the survey. It is difficult to speculate about the responses, but it is possible that some E-COM messages might have been sent by Mailgram service if there was no E-COM service. Of course, references to "lower costs" might also imply a comparison to a mailer's internal operations or to the mailer's expectations.

c. DISCUSS THE DIFFERENCE IN FUNCTIONS PERFORMED BY THE POSTAL SERVICE IN E-COM VERSUS THE MAILGRAM SERVICE.

In Mailgram, Postal Service employees scan each message for errors, spoils, and print quality, separate (or "burst") the messages, and envelope the messages. In E-COM service, employees do not scan each message, and the bursting and enveloping functions are automated.

The functions performed by the Postal Service in E-COM service, which it does not perform in Mailgram service, are customer billing, processing of messages in electronic form, and service design. Many of these E-COM service functions are carried out in ways that reduce physical mail processing costs. For example, in Mailgram, messages are transmitted as soon as they are received, to over 100 Mailgram serving post offices ("SPOs"), and there is no requirement that a customer send more than one Mailgram at a time. When received, Mailgram messages are not massed for production in ZIP Code sequence or according to transportation schedules. Consequently, Mailgram messages are periodically sorted, by hand, within the Mailgram SPO unit, before they can be put into the conventional First-Class mailstream. By contrast, E-COM service involves electronic processing of messages by the Postal Service. Since E-COM service is not designed as a nationwide overnight service, there are only 25 E-COM SPOs, where messages can be concentrated. There is a minimum quantity of 200 E-COM messages per transmission. In each of the SPOs, when E-COM messages are received

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in electronic form, they are stored electronically rather than printed out immediately or as soon as possible. Electronic storage of numerous large mailings permits them to be merged, electronically processed, and printed out according to postal destination and dispatch groups. Thus, E-COM SPO employees need not perform costly manual sortations. In addition, E-COM paper-handling functions, beginning with the separation of messages and concluding with envelope sealing and stacking, are fully automated, and as previously mentioned there is no message-by-message scan by employees.

In sum, the Postal Service performs different functions, and performs some of the same functions differently, in the two services. As a result, the services are different and generally meet different customer needs.

d. DISCUSS THE DIFFERENCE IN REVENUE RECEIVED BY THE POSTAL SERVICE FOR A ONE-PAGE E-COM VERSUS A ONE-PAGE MAILGRAM LETTER. PROVIDE THE FIGURES FOR TWO- AND FIVE-PAGE LETTERS.

Postal Service revenue for each Mailgram message (assuming the message is not certified) is $0.37, regardless of the number of pages. For E-COM service, revenue is $0.26 for a one-page message, and $0.31 for a two-page message. E-COM service is not offered for messages in excess of two pages.

Q-4. IN YOUR MAY 5, RESPONSE YOU PROVIDED "SPO BY WEEK" VOLUME FIGURES THROUGH APRIL 30, 1982. PLEASE PROVIDE FIGURES IN THE SAME FORMAT FOR THE PERIOD MAY 1 THROUGH THE DATE OF YOUR RESPONSE TO THIS INQUIRY.

Attachment C.

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ATTACHMENT A

CERTIFIED E-COM CUSTOMERS

	Certified Customers	Certification Date
1.	Netword	12/22/81
2.	DEC	12/22/81
3.	Postal Communications of America	12/22/81
4.	Western Union Electronic Mail, Inc.	12/22/81
5.	Borman's, Inc.	12/31/81
6.	Equifax	12/31/81
7.	R.C.A.	01/02/82
8.	Electronic Mail Corp. of America	01/04/82
9.	Business Corp.	01/29/82
10.	Jacobus	02/08/82
11.	Heritage	02/08/82
12.	Churchill	02/10/82
13.	News Analysis	02/16/82
14.	Software Development & Maintenance	02/24/82
15.	Data Network	03/01/82
16.	Omnicom	03/03/82
17.	M.C.C.	03/03/82
18.	Business Word Processing	03/19/82
19.	Missouri Indexing	03/19/82
20.	World Wide Volkswagen	04/08/82
21.	James Busse, APR	04/15/82
22.	Volkswagen, Mid-America	04/16/82
23.	Electronic Mail Services	04/16/82
24.	Conway Communications Exchange (CCX)	04/22/82
25.	Penn & Schoen	04/26/82
26.	Moulton Data Systems	04/26/82
27.	Associated Computer Consultants	05/03/82
28.	Greeley Gas	05/04/82
29.	Cableputer	05/04/82
30.	Contacts Influential	05/12/82
31.	Halliburton & Associates, Inc.	05/13/82
32.	U.S. Department of Housing & Urban Development	05/28/82
33.	John's Sporting Goods	05/28/82
34.	Three Systems	05/28/82

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ATTACHMENT B

CUMULATIVE VOLUME TO JUNE 4, 1982 = 366,576

Users

Business Corporation of America

Borman

DEC

Equifax

Netword

RCA

WUEMI

Postal Communications #1 (formerly Taipan)

Heritage

Omnicom

Data Network

News Analysis

M.C.C., Inc.

Business Word Processing

Worldwide Volkswagen

Electronic Mail Corp. of America

Moulton Data Systems

Volkswagen Mid-America

Conway Communications Exchange

Greeley Gas

Cableputer

Electronic Mail Services

James Busse, APR

Contacts Influential

Churchhill

HUD

Halliburton & Associates

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Cumulative Volume to August 13, 1982 = 1,563,101

Associated Computer Consultants
Borman
Business Corporation of America
Business Word Processing
James Busse, APR
Cableputer
Churchhill
Computerland of Dallas/Ft. Worth
Contacts Influential
Conway Communications Exchange
Data Network
Davisons
DEC
Electronic Mail Corp. of America
Electronic Mail Services
Equifax
Greeley Gas
Halliburton & Associates
Hatfield Recon
Heritage
HUD
Image Printing Company
Ingersoll-Rand
ITT
John's Sporting Goods
Mason-Kinder
M.C.C., Inc.
Moulton Data Systems
Netword
News Analysis
Oktibbeher Hospital
Omnicom
Penn & Shoen
Postal Communications #1
(formerly Taipan)
RCA
Software Development & Maintenance
Three Systems
Time, Inc.
Volkswagen Mid-America
Worldwide Volkswagen
WUEMI

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ATTACHMENT C

E-COM MESSAGE ACTIVITY

SPO Name		1/8	1/15	1/22	1/29	2/5	2/12	2/19	2/26	3/5	3/12	3/19	3/26	4/2	4/9
New York, NY	NORTHEAST	1370	149	186	354	439	387	706	2970	4011	607	566	396	1044	4032
Boston, MA		846	106	47	85	160	175	331	250	1688	197	337	115	572	136
Philadelphia, PA	EASTERN	1013	376	19	80	175	317	488	322	949	331	308	284	501	478
Pittsburgh, PA		351	87	19	163	85	77	70	139	396	73	128	394	291	74
Washington, DC		1555	78	495	1949	459	831	668	683	3469	1017	2190	1656	2156	1692
Richmond, VA		261	32	8	35	78	38	26	245	114	--	10	18	213	19
Charlotte, NC	SOUTHERN	554	115	117	160	233	103	106	139	128	120	93	176	330	114
Atlanta, GA		743	61	31	298	245	135	104	127	98	105	89	91	279	98
Orlando, FL		365	50	79	136	308	255	195	189	234	199	187	197	378	281
Nashville, TN		268	1403	23	47	219	50	30	34	49	53	72	42	357	50
New Orleans, LA		504	45	128	34	887	55	181	341	1502	1045	523	77	387	211
Dallas, TX		617	65	70	102	264	257	148	453	118	299	294	86	1394	18687
San Antonio, TX		638	43	107	62	139	82	99	556	87	80	63	93	477	89
Detroit, MI	CENTRAL	753	36	47	67	47	32	91	197	166	52	119	281	280	91
Cincinnati, OH		275	96	25	89	142	79	75	63	182	98	121	65	601	93
St. Louis, MO		515	34	23	45	38	24	73	16	54	125	52	36	248	4053
Kansas City, MO		390	77	28	921	196	57	96	670	71	24	2036	28	282	58
Chicago, IL		936	730	190	253	743	272	214	447	291	246	308	279	528	342
Minneapolis, MN		512	41	15	675	146	27	106	225	76	57	66	35	447	45
Milwaukee, WI		327	39	17	39	84	233	1804	272	291	13	23	24	299	26
Denver, CO	WESTERN	298	552	56	76	8832	1846	181	23	36	76	54	41	258	62
Seattle, WA		319	34	14	522	28	32	153	29	191	86	119	342	724	67
San Francisco, CA		1493	611	154	230	627	179	231	123	133	857	209	183	468	232
Phoenix, AZ		252	16	13	11	22	23	170	651	25	11	34	14	230	17
Los Angeles, CA		795	132	69	163	188	304	1511	238	824	245	273	264	448	246

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ATTACHMENT C

E-COM Message Activity

SPO Name		4/16	4/23	4/30	5/7	5/14	5/21	5/28	6/4	TOTAL
New York, NY	NORTHEAST	1,086	12,127	1,344	18,222	7,094	3,725	4,483	14,333	79,626
Boston, MA		49	391	240		1,045		200	6,614	13,584
Philadelphia, PA	EASTERN	682	200	4,317		16			456	11,312
Pittsburgh, PA		17	499	219		889	887	1,218	1,129	7,205
Washington, DC		2,102	1,372	1,033	1,033	631	705	3,583	1,503	31,615
Richmond, VA		200	417	214	1,000		499		583	4,010
Charlotte, NC	SOUTHERN	248	234	299					321	3,520
Atlanta, GA		5,401	651	14,857	398	422	783	1,328	9,475	35,819
Orlando, FL		108	200	225					666	4,252
Nashville, TN		26	218	217					176	3,334
New Orleans, LA		230	233						261	6,644
Dallas, TX		943	1,240	10,000	1,623	303	390		9,783	47,944
San Antonio, TX		29	217	213					288	3,362
Detroit, MI	CENTRAL	16	217	210	76	80	262		348	3,468
Cincinnati, OH		24	222	232					9,324	11,806
St. Louis, MO		6	253	1,096					362	7,053
Kansas City, MO		11	221	230	49				293	5,738
Chicago, IL		608	936	5,146	471	732	1,033	1,022	14,033	29,760
Minneapolis, MN		14	217	202					203	3,109
Milwaukee, WI		8	217	277	138		432		590	5,153
Denver, CO	WESTERN	160	355	404	43,192	138	297	535	3,952	61,424
Seattle, WA		39	397	212	200	200	221	447	3,819	8,195
San Francisco, CA		71	300	221					572	6,944
Phoenix, AZ		7	17	212		400			152	2,277
Los Angeles, CA		874	659	4,216	457	591	851	758	4,867	18,973

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C. "E-COM MESSAGE ACTIVITY," PROVIDED BY THE U.S. POSTAL SERVICE

E-COM Message Activity

SPO Name		4/16	4/23	4/30	5/7	5/14	5/21	5/28	6/4	6/11	6/18
New York, NY	NORTHEAST	1,086	12,127	1,344	18,222	7,094	3,725	4,483	14,333	1,603	2,647
Boston, MA		49	391	240		1,045		200	6,614	13,025	435
Philadelphia, PA	EASTERN	682	200	4,317		16			456		43
Pittsburgh, PA		17	499	219		889	887	1,218	1,129	1,132	1,232
Washington, DC		2,102	1,372	1,033	1,033	631	705	3,583	1,503	807	3,748
Richmond, VA		200	417	214	1,000		499		583		20
Charlotte, NC	SOUTHERN	248	234	299					321	199	
Atlanta, GA		5,401	651	14,857	398	422	783	1,328	9,475	24,742	1,369
Orlando, FL		108	200	225					666	2,330	1,618
Nashville, TN		26	218	217					176	420	54
New Orleans, LA		230	233						261		115
Dallas, TX		943	1,240	10,000	1,623	303	390		9,783	842	21,604
San Antonio, TX		29	217	213					288		27
Detroit, MI	CENTRAL	16	217	210	76	80	262		348		10
Cincinnati, OH		24	222	232					9,324	11,393	30
St. Louis, MO		6	253	1,096					362		224
Kansas City, MO		11	221	230	49				293		17
Chicago, IL		608	936	5,146	471	732	1,033	1,022	14,033	35,745	1,414
Minneapolis, MN		14	217	202					203		17
Milwaukee, WI		8	217	277	138		432		590	2,107	5
Denver, CO	WESTERN	160	355	404	43,192	138	297	535	3,952	5,398	422
Seattle, WA		39	397	212	200	200	221	447	3,819	234	8,205
San Francisco, CA		71	300	221					572	9,685	59
Phoenix, AZ		7	17	212		400			152		20
Los Angeles, CA		874	659	4,216	457	591	851	758	4,867	796	2,306

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E-COM Message Activity

SPO Name		6/25	7/2	7/9	7/16	7/23	7/30	8/6	8/13	Total
New York, NY	NORTHEAST	9,204	2,574	17,950	2,080	738	8,368	12,004	13,789	150,583
Boston, MA			2,131	8,009	475	341	1,668	441	3,461	43,570
Philadelphia, PA	EASTERN			4,834		619	864	2,999	264	20,935
Pittsburgh, PA			257	3,926		70	638	1,272	773	16,505
Washington, DC		1,637	1,515	2,655	6,465	54,713	7,435	595	20,212	131,397
Richmond, VA				1,869	252	27	161	1		6,340
Charlotte, NC	SOUTHERN	30,451	10,223	34,293	24,216	81,272	57,709	21,122	60,416	323,421
Atlanta, GS		32,067	3,931	784	21,280	40,491	30,587	31,887	17,499	240,456
Orlando, FL		1,281	994	5,878	1,008	20,108	2,581	6,515	239	46,804
Nashville, TN		202		2,867	341	21,634	18,884	800	7,838	56,374
New Orleans, LA			3,667	587	773	620	1,307	607	730	21,809
Dallas, TX		634	2,001	8,111	17,995	1,092	1,098	14,552	16,417	132,290
San Antonio, TX		97		2,774	365	73	443	1	985	8,127
Detroit, MI	CENTRAL	24,365		3,555	2,211		617	1,478	21,067	56,771
Cincinnati, OH				5,514	17,843	25,154	3,007	1,295	772	76,814
St. Louis, MO				1,942	103	11,061	9,250	558	218	30,409
Kansas City, MO				4,234	202	49	183			10,423
Chicago, IL		1,337	1,120	8,266	1,178	1,212	2,222	5,567	5,068	92,889
Minneapolis, MN				2,753		27	20			5,926
Milwaukee, WI		2,213		2,078		31	23			11,610
Denver, CO	WESTERN	292	402	2,111	10,106	389	474	1,078	3,762	85,858
Seattle, WA		1,621	3,856	4,024	1,841	899	719	730	405	30,729
San Francisco, CA		200	2	3,164	19,706	44	1,654	3,392	2,052	46,902
Phoenix, AZ				744		30	338	1,262	1,018	5,689
Los Angeles, CA		1,892	1,485	6,091	1,146	17,897	4,140	10,052	6,669	71,447

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